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FICHTE'S THEORY OF INTERSUBJECTIVITY

James Alexander Clarke

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University of Durham
Department of Philosophy

2004

Submitted for the degree of Ph.D.



28 FEB 2005

I would like to thank Professor D. E. Cooper for supervising this Ph.D. His advice and support were invaluable. I would also like to thank Professor E. J. Lowe and Professor P. Dews for examining this Ph.D. I learned much from their comments and criticisms.

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Fichte's Theory of Intersubjectivity

James Alexander Clarke

ABSTRACT

This thesis rejects the traditional picture of Fichte as a 'philosopher of subjectivity' who conceives of reality as the product of an 'absolute subject'. In opposition to this view, this thesis presents Fichte as a philosopher of intersubjectivity, whose primary concern is with relations between subjects. It argues that the true originality of Fichte's philosophy lies in his claim that intersubjectivity is a condition of the possibility of self-consciousness.

Part 1 of this thesis defends Fichte's claim that Kant's transcendental idealism requires an account of how we recognize other rational beings. It seeks to demonstrate the necessity of such an account by examining the role of intersubjectivity within Kant's transcendental philosophy. Chapters 1, 2 and 3 deal, respectively, with the significance of intersubjectivity for Kant's accounts of theoretical reason, practical reason and the unity of reason.

Part 2 of this thesis considers Fichte's attempt to develop a theory of intersubjectivity within his system of transcendental philosophy or *Wissenschaftslehre*. Chapter 4 considers Fichte's conception of such a system, and stresses the importance of political, ethical and pedagogical themes to this conception. Chapter 5 provides a detailed discussion of Fichte's first serious treatment of the topic of intersubjectivity — *Some Lectures Concerning the Scholar's Vocation*. Chapter 6 seeks to provide a reading of Fichte's first presentation of the 'foundations' of his system that is consistent with his concern with intersubjectivity. Chapter 7 provides an extensive discussion of Fichte's most complete presentation of his theory of intersubjectivity — the *Foundations of Natural Right*.

University of Durham
Department of Philosophy

2004

DECLARATION

I confirm that no part of the material has been submitted by me for a degree in this or any other university. No material has been generated by joint work. In all cases material from the work of others has been acknowledged and quotations and paraphrases suitably indicated.

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James Alexander Clarke

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Abbreviations

The following abbreviations are used to refer to frequently cited texts.

AK = Kant (1902 —) *Immanuel Kants Schriften. Ausgabe der königlich preussischen Akademie der Wissenschaften*, Berlin: de Gruyter.

C1 = Kant (1997) *Critique of Pure Reason*, trans. & eds. P. Guyer and A. Wood, Cambridge: Cambridge University Press.

C2 = Kant (1996) *Critique of Practical Reason in Practical Philosophy*, trans. & ed., M. Gregor, Cambridge: Cambridge University Press.

C3 = Kant (2000) *Critique of the Power of Judgement*, ed. P. Guyer, trans. P. Guyer & E. Matthews. Cambridge: Cambridge University Press.

G = Kant (1996) *Groundwork of the Metaphysics of Morals in Practical Philosophy*, trans. & ed., M. Gregor, Cambridge: Cambridge University Press.

GA = Fichte (1964 —) *J. G. Fichte: Gesamtausgabe der Bayerischen Akademie der Wissenschaften*, eds. R. Lauth, H. Jacob & H. Gliwitzky, Stuttgart-Bad Cannstatt: Frommann.

EPW = Fichte (1988) *Early Philosophical Writings*, trans. & ed., Breazeale, Ithaca & London: Cornell University Press.

FNR = Fichte (2000) *Foundations of Natural Right*, trans. M. Baur, Cambridge: Cambridge University Press.

IWS = Fichte (1994) *Introductions to the Wissenschaftslehre and Other Writings (1797-1800)*, trans. & ed., D. Breazeale, Indianapolis/Cambridge: Hackett Publishing Co.

OCCP = Fichte (1999) *Oeuvres choisies de philosophie première*, trans. A. Philonenko, Paris: Vrin.

Prol. = Kant (1977) *Prolegomena to Any Future Metaphysics that will be able to come forward as a Science*, trans. J. Ellington, Indianapolis: Hackett.

PW = Kant (1991) *Political Writings*, ed. H. Reiss, Cambridge: Cambridge University Press.

SK = Fichte (1982) *The Science of Knowledge*, trans. P. Heath and J. Lachs, Cambridge: Cambridge University Press.

SW = Fichte (1971) *Johann Gottlieb Fichtes sämtliche Werke*, ed., I. H. Fichte, Berlin: de Gruyter.

WSNM = Fichte (1992) *Foundations of Transcendental Philosophy (Wissenschaftslehre) nova methodo (1796/99)*, trans. & ed. Breazeale, Ithaca & London: Cornell University Press.

Introduction

Within recent 'continental' philosophy, the question of intersubjectivity — the question of the nature and philosophical significance of the relations between subjects — has become an issue of crucial importance. Within the phenomenological tradition, writers such as Scheler, Heidegger, Sartre, Merleau-Ponty, Schutz and Levinas have all stressed the significance (both 'ontological' and ethical) of our relation to others. The tradition of 'Critical Theory' has also evinced a concern with the significance of intersubjectivity, recent theorists moving away from a preoccupation with Marx's penetrating analyses of the value-form and commodity fetishism.¹ For writers such as Habermas, Apel and Honneth a theory of intersubjectivity provides the indispensable foundation for an ethical critique of late capitalism.

Given the significance of this concern with intersubjectivity, several writers have sought to inquire as to its origins and development. Within the tradition of Critical Theory, Habermas and Honneth have explored this topic thoroughly. Whilst acknowledging the influence of the German philosophical tradition, they also emphasize the importance of American pragmatism — specifically G. H. Mead's theory of 'symbolic interaction' and the 'pragmatism' of C. S. Peirce. Within phenomenology, Sartre, Merleau-Ponty, Schutz and Levinas have all provided detailed discussions of Husserl's infamous account of intersubjectivity in his *Cartesian Meditations*. Despite these differing influences, however, both groups of writers concur in stressing the importance of G. W. F. Hegel's account of intersubjectivity. This account is most commonly associated with Hegel's claim, in the *Phenomenology of Spirit*, that a relationship of mutual 'recognition' (*Anerkennung*) between agents is a condition of the possibility of self-consciousness. Whilst this claim is first advanced in Chapter IV of the *Phenomenology*, mutual recognition is only achieved with the transition to Spirit (*Geist*). The 'natural consciousness' first experiences self-consciousness as the agonistic, asymmetrical relation of mastery and servitude, a relationship resulting from the 'struggle for recognition'. This account of the struggle for recognition and of the relation of domination and subjection has played a crucial role in thinking about intersubjectivity. Hegel's claim that the master's domination is ultimately self-defeating (the slave's recognition meaning *nothing* to the master) and that the slave comes to realize a nascent freedom through transforming the natural world (through labour) clearly has affinities with Marx's conception of the class struggle. These affinities were emphasized by A. Kojève, whose Paris lectures (1933-39) exerted a considerable influence upon the French phenomenological movement.² Indeed, Sartre's early



conception of intersubjectivity as a relation of domination and subjection owes much to Kojève's account of the dialectic of mastery and servitude.

Now it is important to note that Hegel's discussion of recognition is not restricted to Chapter IV of the *Phenomenology*. The relationship between subjects is a constant preoccupation of Hegel's early writings, and is to be found in works from the Berne, Frankfurt and Jena periods. The significance of the Jena Lectures on the *Philosophy of Spirit* has been stressed by Habermas, who claims that their emphasis on the interconnection between work and interaction (two relations which are irreducible to each other) is abandoned in the later works.³ Habermas' emphasis upon Hegel's early account of recognition has been further developed by Axel Honneth. In *The Struggle for Recognition: The Moral Grammar of Social Conflicts*, Honneth argues that the early Jena works provide a richer conception of recognition than that provided in the *Phenomenology*.⁴ According to Honneth, the significance of Hegel's early notion of recognition lies in the fact that it is prior to the preoccupation with the 'philosophy of subjectivity' characteristic of the later work. By this, Honneth means that 'recognition' is not merely a moment in the formative development of Spirit, but a central aspect of all human experience.

Habermas and Honneth have therefore advanced our understanding of the origins of the concept of recognition within Hegel's work. Yet they have little to say about the pre-Hegelian origins of this notion. They pay little attention to the fact that this concept is first to be found in the transcendental idealism of J. G. Fichte. For it is in his 1796-7 *Foundations of Natural Right (Grundlage des Naturrechts)* that Fichte first advances the claim that recognition is a condition of the possibility of self-consciousness.⁵ In his essay on Hegel's Jena Lectures, Habermas draws upon the work of D. Henrich to present Fichte as a philosopher simply concerned to provide an innovative theory of self-consciousness.⁶ And whilst Habermas acknowledges, in his essay on G. H. Mead, Fichte's reflections on intersubjectivity, he argues that they only represent a 'step' in the direction of a 'theory of intersubjectivity', being systematically subordinated to Fichte's 'philosophy of the subject'.⁷ In *The Struggle for Recognition* Honneth, whilst recognizing the significance of Fichte's account of recognition, places equal emphasis on the agonistic accounts of intersubjectivity provided by Hobbes and Machiavelli.⁸ For Honneth, Fichte's contribution is merely to have provided the starting point for Hegel's more comprehensive account of intersubjective relations. Both Honneth and Habermas therefore accord little importance to Fichte's account of recognition, considering Hegel's account to be of greater significance.

Why, then, has Fichte's account of recognition been so comprehensively neglected by philosophers of intersubjectivity? It seems to me that the answer to this question is to be found in the history of the reception of Fichte's idealism. For many

scholars of post-Kantian idealism, Fichte is primarily the exponent of a metaphysics of transcendental subjectivity — a metaphysics in which a quasi-theological entity (the 'absolute I') creates (or simply *is*) reality in its entirety. On this account, Fichte's idealism merely inflates Kant's conception of the transcendental unity of apperception into a Promethean all-creating force. Now it is important to note that this interpretation of Fichte's project was first advanced by Schelling and Hegel. In his 1795 essay *Of the I as the Principle of Philosophy or On the Unconditioned in Human Knowledge*, Schelling suggested that the Fichtean absolute I was intuitively identical with Spinoza's 'God or Nature'.⁹ It was, Schelling claimed, the source of all reality and being. Whilst Schelling initially defended Fichte's conception of the 'Absolute' he came to regard it as one-sided — as a merely 'subjective' idealism. A truly 'absolute idealism' must, Schelling argued, conceive of the 'unconditioned' (*das Unbedingte* — literally, the un-thinged) source of all human experience as an 'absolute Subject-Object', as the identity of thought and being. This claim was further developed by Hegel in his 1801 essay *The Difference between Fichte's and Schelling's System of Philosophy*.¹⁰ There, Hegel argued for the superiority of Schelling's principle of 'absolute identity' over Fichte's merely 'subjective Subject-Object'. For Hegel, as for Schelling, Fichte's emphasis on absolute subjectivity entailed considering nature and objectivity as merely dependent realities. This led Hegel to argue that Fichte's claim that everything was dependent upon the absolute I conflicted with the claim, crucial to Fichte's 'practical' philosophy, that human agents enjoy a real, independent existence.¹¹

Hegel's criticisms are complex, and require further discussion. What is of interest here is that they have been regarded as canonical by a whole generation of interpreters, writers such as Kröner, Lukács and Gueroult all supporting the Hegelian interpretation of Fichte. For these writers, Fichte's notion of absolute subjectivity is incompatible with his emphasis on intersubjectivity as a relation between independently existing subjects. Clearly, any attempt to provide a coherent interpretation of Fichte's concern with intersubjectivity (that is, an interpretation that manages to resolve this apparent contradiction) must reject the traditional 'metaphysical'¹² reading of Fichte's idealism.

Within recent scholarship on Fichte's idealism there has been a concerted effort to replace the standard 'metaphysical' interpretation of Fichte's project with a 'non-metaphysical' interpretation — an interpretation which stresses the 'Critical' nature of Fichte's project. While the exponents of this reading agree in their rejection of the standard picture, they differ as to the aspects of Fichte's project that they emphasize. For writers such as Henrich, Pippin, Martin and Neuhouser, Fichte's idealism consists in an attempt to articulate the way in which transcendental subjectivity inheres in all conscious human cognition and action. On this account, the absolute I does not

'create' all reality. Rather, a spontaneous subjective activity is regarded as the ineliminable condition of all thinking and willing. Now whilst this interpretation receives considerable support from Fichte's writings, it fails to account for Fichte's apparent concern with intersubjectivity. For it still presents Fichte as a philosopher of *subjectivity*, as a philosopher who is simply trying to explore Kant's claim that 'it must be possible for the 'I think' to accompany all my representations'.¹³ It is therefore hardly surprising that Habermas draws upon Henrich's reading of Fichte to advance the claim that 'Fichte only deepens Kant's transcendental unity of self-consciousness'.¹⁴

In contrast to this approach, several writers have sought to present Fichte as primarily a philosopher of *intersubjectivity* — as a philosopher for whom the issue of the *relation* between subjects is of central importance. This interpretation was first advanced by Alexis Philonenko in his path-breaking work *La liberté humaine dans la philosophie de Fichte*. In the introduction to this work Philonenko points out that Fichte's preoccupation with intersubjectivity is present in his earliest writings, emerging as a response to problems internal to Kant's Critical idealism.¹⁵ Philonenko therefore claims that we should read Fichte's philosophy through the 'prism of intersubjectivity', regarding his idealism as an attempt to provide a theory of intersubjectivity.¹⁶ Following this suggestion, writers such as Radrizzani and Renaut have provided fascinating explorations of Fichte's transcendental philosophy.¹⁷

This thesis takes Philonenko's claim seriously. It seeks to interpret Fichte's transcendental philosophy as a serious attempt to provide a theory of intersubjectivity. It attempts to trace the origins and development of Fichte's concern with intersubjectivity, and to show the originality of his attempt to provide a transcendental idealist account of our relations to others.

In the first part of this thesis I defend Fichte's contention that the chief failure of Kant's Critical philosophy is its inability to justify our claim to know other rational beings like ourselves. I defend Fichte's contention by arguing that intersubjectivity plays a central role in Kant's accounts of theoretical and practical reason (chapters 1 and 2) and in his attempts to secure the unity of reason (chapter 3). Having demonstrated the importance of intersubjectivity for Kant's Critical philosophy, I argue that Fichte is correct to criticize Kant for failing to provide a justification for our claim that there are other rational beings. In the second part of this thesis I provide a detailed account of Fichte's attempts to develop a theory of intersubjectivity. My account follows the course of the development of Fichte's theory of intersubjectivity during the so-called 'Jena period' of his career (1794-9), the period in which Fichte's concern with intersubjectivity is most evident. In chapter 4, I provide an account of Fichte's conception of a system of transcendental philosophy or *Wissenschaftslehre*. This account stresses the way in which Fichte's concerns with freedom, politics, morality and education are integral to

his conception of a system of transcendental philosophy. In chapter 5, I provide a detailed discussion of the work in which Fichte provides his first serious reflections upon intersubjectivity — *Some Lectures Concerning the Scholar's Vocation*. I emphasize the way in which Fichte attaches great moral and political significance to intersubjectivity, and examine Fichte's attempt to provide an account of how we come to recognize other rational beings like ourselves. In chapter 6, I address a problem that threatens my interpretation of Fichte's philosophy: the claim that Fichte's 1794-5 *Foundations of the Entire Wissenschaftslehre* advocates a 'subjective idealism' which regards other subjects as the 'products' of an 'absolute I', thereby denying them independent existence. I address this issue by demonstrating the implausibility of this traditional 'metaphysical' interpretation, and by offering an alternative 'non-metaphysical' interpretation of Fichte's idealism. Having advanced this interpretation I turn, in chapter 7, to consider Fichte's most developed statement of a theory of intersubjectivity — the 1796-7 *Foundations of Natural Right*. I discuss Fichte's specific conception of a 'doctrine' or 'theory' (*Lehre*) of right and the role of such a doctrine within his system of transcendental philosophy. I then provide a detailed presentation of Fichte's infamous argument that a relationship of mutual recognition is a condition of the possibility of self-consciousness. I argue that, whilst Fichte's argument does not bear close scrutiny, it contains several original and philosophically plausible insights. I conclude the thesis with a brief consideration of the relevance that these insights might have for contemporary social and political thought.

Part I

**KANT'S CRITICAL PHILOSOPHY AND THE PROBLEM OF
INTERSUBJECTIVITY**

Introduction to Part I

Fichte often presents his transcendental idealism as simply a systematic development of Kant's Critical philosophy. In his second Introduction to the new presentation of the *Wissenschaftslehre* of 1796 he claims that his philosophy 'is in complete accord with Kant's and is nothing other than the Kantian philosophy properly understood.'¹⁸ This is admittedly a puzzling claim, insofar as Fichte's transcendental idealism departs from Kant's Critical philosophy in many respects. Yet Fichte's claim is that he 'properly understands' Kant's philosophy, or that he grasps the 'spirit' (*Geist*) of Kant's philosophy as distinct from its 'letter' (*Buchstab*). For Fichte, the 'spirit' of Kant's philosophy is very different from the form it receives in the three critiques, and he hopes to provide this spirit with a new 'presentation' (*Darstellung*).¹⁹

Now whilst certain Kantian concerns are clearly developed in Fichte's idealism — such as the primacy of practical reason and the spontaneity of apperception — Fichte also introduces concerns that seem entirely foreign to Kant's project. The most striking of these is Fichte's attempt to provide a *transcendental justification* of our everyday assumption that there are other rational beings like ourselves. According to Fichte, Kant's failure to provide such a justification is the central flaw of his Critical philosophy. This criticism is most clearly expressed in the 1796-9 *Wissenschaftslehre nova methodo*. There, Fichte claims that:

The most striking demonstration of the incompleteness of Kant's Critical philosophy is that Kant has never provided an explanation of this point, {that is, how I come to assume that there are rational beings outside of me}. {According to his system, I cannot answer, "I know this from experience", because, according to Kant, no experience, in the dogmatic sense, of something "in itself" is even possible. He himself also says that reason outside of us is not something that can be perceived and that no outer intuition of it is possible.} He came very close to answering this question in the *Critique of Judgement* [...].²⁰

Fichte therefore considers Kant's system to be unable to account for our assumption that there are rational beings outside of us. Yet whilst we might be prepared to accept this criticism, we might ask why Fichte considers it to be so important. We might ask, in other words, why Fichte thinks that Kant *needs* to provide a transcendental justification of our common-sense belief that there are other rational agents like ourselves. And the most obvious, and immediately plausible, answer to this question is that Kant requires *no such justification*, having little interest in intersubjective relations. Nevertheless, this answer is not Fichte's answer. For Fichte, interpersonal relations play a central role in Kant's epistemological, moral, political and aesthetic theories. Given this centrality, Fichte rightly points out that our knowledge of other agents requires transcendental

justification similar to that provided for moral and theoretical judgements. We must, in other words, discover the a priori conditions for the possibility of our knowledge of other agents. Or rather, we must raise the *quid juris* concerning our knowledge of others. And it is Fichte's claim that Kant addresses this question inadequately.

In what follows, I hope to demonstrate the legitimacy of Fichte's criticism of Kant. I shall consider the role that intersubjective relations play in Kant's Critical treatment of knowledge (chapter 1), morality (chapter 2) and the unity of reason (chapter 3), and assess Kant's discussions of the possibility of our knowledge of other rational agents. My account will draw upon Philonenko's claim that there are three structures of communication in Kant's philosophy²¹ and will occasionally refer to the work of Habermas, Wellmer and Apel. However, before turning to this account, some terminological clarifications are necessary.

Intersubjectivity and Intersubjective Validity

In the Introduction, I claimed that a concern with intersubjectivity is a concern with the nature and philosophical significance of the relations between subjects. Throughout this essay, the term 'intersubjectivity' will be used as a general term for the various modes of interaction or 'communicative action' (Habermas) between two or more subjects. These modes of interaction range from intimate personal relations to abstract legal relations. They may be reciprocal relations or one-sided relations of domination. What they have in common is that they are modes of activity that can only be realized in relations *between* agents.

The term 'intersubjective validity' has been used by several writers in discussing the role of intersubjectivity in Kant's Critical philosophy. For writers such as Kneller²² and Gardner²³ to claim that judgements are 'intersubjectively valid' is to claim that they apply necessarily and without exception *to all subjects*. On this definition, the 'principles of the understanding' of the first *Critique* would be 'intersubjectively valid'. The problem with this conception of 'intersubjective validity' is that it omits the aspect of interaction which is central to intersubjectivity. In other words, it omits the 'inter' from intersubjectivity. Furthermore, this conception of 'intersubjective validity' is characteristically used to refer to Kant's notion of 'universal validity' (*Allgemeingültigkeit*). For Kant, to say that principles or conditions of the possibility of experience are 'universally valid' is to say that they apply necessarily, and without exception, to all finite subjects of experience.²⁴ It is *not* to say anything about the nature of the relations *between* such subjects, although the 'universal validity' of certain principles may have implications for such relations. If what the aforementioned commentators mean by 'intersubjective validity' is what Kant calls 'universal validity' it

seems preferable to retain Kant's term²⁵, whilst using 'intersubjective validity' in the sense which stresses interaction.

The term has also been used extensively by Apel, Habermas and Wellmer. Wellmer describes intersubjectively valid judgements as judgements which 'everybody could agree upon'.²⁶ Apel states that propositions are intersubjectively valid just in case they are 'capable of a consensus by all possible members of an unlimited ideal argumentation community which we counterfactually anticipate in addressing our real discourse partners'.²⁷ Following these writers a judgement can be said to be intersubjectively valid just in case everyone could, in principle, reach a consensus concerning it through rational argument among themselves. This conception of validity stresses interaction insofar as the requisite consensus can only be achieved through rational dialogue. In what follows, I shall be using 'intersubjective validity' in this sense.

With these clarifications in mind, I now wish to consider the role of intersubjectivity in Kant's Critical philosophy.

INTERSUBJECTIVITY AND THEORETICAL REASON

Intersubjectivity seems to play no significant role in Kant's theoretical philosophy. Nevertheless, much of Kant's account of the conditions of the possibility of experience presupposes that communication and agreement between subjects of experience is possible. We can begin to see this by briefly considering some of the central aspects of Kant's transcendental idealism.

In *Kant's Transcendental Idealism: An Interpretation and Defense*, Henry Allison presents transcendental idealism in relation to 'transcendental realism'. Both positions are, Allison argues, mutually exclusive meta-philosophical positions. Transcendental realism takes as its starting point an independently existing realm of objects. The (human) subject of experience²⁸ is subsequently introduced into this realm and the question then arises as to how it comes to know the objects that constitute this realm. The epistemological assumption is that the subject's knowledge must somehow *conform* to, or become *adequate* to, this mind-independent realm. Yet, the fundamental gap postulated between subject and object raises an intractable problem for any account — whether 'empiricist' or 'rationalist' — of how this conformity or adequation takes place. Empiricism might seek to explain the acquisition of knowledge by the impress of 'reality' upon the subject's mind. But in order for the subject's experience to have any structure or coherence (rather than being a merely disorganized influx of sense-impressions) some capacity to recognize and discriminate between objects of experience must be presupposed. In other words, empiricism must presuppose what it seeks to explain; namely, an ability of the subject of experience to recognize objects of experience. Rationalism faces a similar structural difficulty. For it seeks to account for the conformity of the subject's ideas to reality by appealing to a supra-empirical principle, whether it be the intervention of God (Malebranche) or 'pre-established harmony' (Crusius, Leibniz). But it fails to give any account of how this principle *itself* is known and therefore merely displaces the problem. Its principle of justification is itself unjustified, leading Kant to claim (in his infamous letter to Herz of February 21, 1772) that the '*deus ex machina* is the greatest absurdity one could hit upon in the determination of the origin and validity of our cognitions'.²⁹

Furthermore, transcendental realism is committed to drawing a distinction between two modes of cognition, that of finite subjects of experience and that of an

infinite, omniscient subject (God). This distinction is an upshot of its explanatory strategy, which, as we noted, proceeds by postulating an independently existing ontological order. This order in its entirety is intelligible to God alone; we, finite subjects, have a merely limited cognitive access to it and can never hope to grasp reality *sub specie aeternitatis* ('under the aspect of eternity' — Spinoza).

Transcendental idealism adopts a radically different approach, which Allison describes as 'anthropocentric'. Here, the fundamental epistemological assumption (although, as we shall see, there are others) is the 'Copernican' assumption that 'objects conform to our cognition'.³⁰ The idea, simply put, is that the world of experience is not a bare unconceptualized 'given' into which we are placed. Rather, the fundamental structure of this world is constituted by our cognitive capacities — the spontaneous capacity of understanding and the receptive capacity of sensibility. These cognitive capacities and their operations are the conditions for the possibility of experience; without their constitutive function there would be no experience. But they are also, and crucially, the conditions for the possibility of the objects of experience; without the schematized categories there would be no experiential world.³¹

Now, the task of demonstrating that the categories have objective validity is a central concern of the first *Critique*. For the bare fact that we possess and apply these categories to experience does not show that we have any right to do so. The application of the categories to a realm of objects ('experience' in an attenuated sense) must be justified; their objective validity must be demonstrated. This demonstration is provided in the 'Transcendental Deduction'. There, Kant argues for the objective validity of the categories (which are 'concepts of an object in general') by showing that they are required as rules for the synthesizing activity of transcendental self-consciousness — the 'I think'.³² Synthesis in accordance with these rules provides our judgements with objective validity — the capacity to refer to a realm of objects (objects in the 'weak' sense — *Objecte* as opposed to *Gegenstande*). The synthesizing, spontaneous activity of the transcendental unity of apperception is therefore a condition of the possibility of our judgements having objective validity. However, unless our representations were synthesized in accordance with 'concepts of an object in general' (and, ultimately, in relation to the concept of the 'transcendental object') we would not *be* transcendental subjects — subjects which unify the manifold of representations into an objective order.³³ The Transcendental Deduction therefore establishes a relation of mutual dependence between transcendental subjectivity and objectivity.

Now, this 'transcendental I' is a universal, undifferentiated I which is radically distinct from the particular I of empirical consciousness. It is an 'empty concept' which can, as Kant notes in the 'Paralogisms of Pure Reason', 'be applied to every thinking

subject'.³⁴ This I is common to *all* subjects of experience, as are the categories and principles founded upon it. As such this I, and the principles founded upon it, are 'universally valid'.

In the section of the *Prolegomena* corresponding to the Transcendental Deduction of the first *Critique*, Kant provides further insight into the universal nature of this 'I'. Kant opens his justification of the categories by drawing a distinction between two types of empirical judgement: 'judgements of experience' and 'judgements of perception'.³⁵ Judgements of perception are '*only subjectively valid*' — they hold only for the subject's private sense-experience and are true relative to such experience. They do not state what *is* the case, but merely what *seems to me* to be the case at a particular time. Judgements of experience, by contrast, are 'objectively valid' — they refer to a realm of persisting objects which is, in principle, accessible to everyone. Judgements of experience are valid 'at all times for us and for *everyone else*', and Kant refers to this feature as their 'universal validity' (*Allgemeingültigkeit*).³⁶ Judgements of experience are therefore *both* objectively and universally valid.³⁷

The different modes of validity that judgements of perception and judgements of experience possess are functions of the different ways in which their constituent representations are unified. In judgements of perception, 'perceptions' or intuitions are contingently unified in a single empirical consciousness in accordance with empirical laws of association.³⁸ They do not, Kant claims, presuppose the categories and are merely subjectively valid.³⁹ In judgements of experience, intuitions are necessarily unified in 'a consciousness in general' in accordance with the categories.⁴⁰ The categories guarantee the objective validity of these judgements, unifying the manifold of intuitions into an ordered, objective whole. Yet the categories, as activities of 'consciousness *in general*', also guarantee the universal validity of these judgements, insofar as such judgements are grounded upon cognitive capacities that are common to all subjects.⁴¹ Objective validity and universal validity are 'interchangeable concepts' insofar as they are functions of one and the same 'consciousness in general' and its unifying activity.

Judgements are therefore objectively valid just in case they are grounded upon a priori rules of synthesis (the categories) that are possessed by *all* subjects of experience. As such, the objective validity of the categories is demonstrated.

Now what is so striking about this deduction of the categories is its apparent concern to stress a seemingly 'social' aspect of cognition. This concern is evinced by the substitution of the term 'consciousness in general' for 'transcendental unity of apperception'. This substitution suggests that the 'transcendental subject' is not an isolated 'Cartesian' self but a consciousness that is *common to all*. It is 'a consciousness *in general*' and this suggests a social dimension that is lacking from the

Transcendental Deduction.⁴² Transcendental subjectivity is not that which differentiates us from other subjects, but that which we have in common with them. It may, following the Transcendental Deduction, be that feature of consciousness by virtue of which my representations are 'mine', but it also — the *Prolegomena* stresses — serves that function for every other subject. It is an essentially *public* possession, a feature that may 'be applied to every thinking subject'.⁴³ Empirical consciousness, by contrast, is that which serves to individuate us, to differentiate us from other subjects. It is, the *Prolegomena* suggests, a *private* consciousness.

The discussion of the judgements based upon these different modes of consciousness also evinces a preoccupation with the seemingly social nature of cognition. Judgements of perception are valid only for the empirical subject who makes them. They do not refer to objects (which requires synthesis in accordance with the categories) but merely to the subject's sense-experience (which, in judgements of perception, is unified according to empirical laws). Judgements of perception are neither universally nor objectively valid. Judgements of experience are both universally valid — they hold for *all* subjects — and objectively valid, they refer to a domain of objects. Now this domain is a *publicly accessible* domain, a domain that is cognitively available to all. Insofar as our judgements all refer to the same domain of objects we may come to an agreement about the properties of, and relations involving, such objects. The judgements of different subjects might, as Kant claims, 'harmonize among themselves' by virtue of the fact that they all agree upon the nature of an object.⁴⁴ If this were the case an *indirect* relationship between subjects would be established, a mode of intersubjectivity that Philonenko — with reference to the first *Critique* — terms 'objective communication' or 'communication in cognition'.⁴⁵ What characterizes this mode of communication is, Philonenko claims, 'the fact that it is *indirect*: it relies upon the mediation of the concept or the object'.⁴⁶ In objective communication we 'communicate indirectly, although objectively, through the mediation of the object'.⁴⁷

Such a notion of a mediate 'objective communication' is also to be found in the first *Critique*, towards the end of the Transcendental Deduction. There, Kant argues — in opposition to the notion of a '**preformation-system** of pure reason' — that if causal judgements were founded upon a merely 'subjective necessity' of combining representations there would be no necessary consensus regarding the 'causal' relation between objects.⁴⁸ My judgements would only have subjective validity, they would only be necessary for me, and there might therefore be a lack of agreement amongst our judgements. This, Kant claims, is precisely what the sceptic wants, 'for one would not be able to quarrel with anyone about that which merely depends on the way in which his subject is organized'.⁴⁹ If, however, we were *all* necessarily constrained to structure

experience in the same way, in accordance with the categories, the possibility of cognitive consensus or 'objective communication' would be secured.

This idea is further developed in the third section of the 'Canon of Pure Reason' of the first *Critique*: 'On having an opinion, knowing and believing.'⁵⁰ Kant's main concern here is with 'taking something to be true' — *das Fürwahrhalten*; the justificatory relationship of a subject to a judgment. Kant draws a distinction between two fundamental modes of *Fürwahrhalten* — 'conviction' (*Überzeugung*) and 'persuasion' (*Überredung*). Persuasion is 'mere semblance' — the subject takes her judgment to be objectively valid (justifiable with reference to an objective state of affairs) whereas, in truth, the 'ground of the judgment' lies only in the 'particular constitution of the subject.' The judgment is merely subjectively valid — it is only justifiable with reference to the particular experience of the subject. Conviction, in the theoretical or 'speculative' sense⁵¹, is objectively valid — the subject's judgment is justifiable with reference to an objective state of affairs. Conviction is also universally valid, the justification could be accepted by *all* subjects of experience — it is 'valid for *everyone* merely as long as he has reason'.⁵²

At first glance, this distinction appears similar to that made in the *Prolegomena*. It differs from the latter, however, insofar as Kant proceeds to make fully explicit the social nature of cognition. He achieves this by focusing upon the communicative aspect of the two modes of *Fürwahrhalten*. Insofar as persuasion is justified with reference to the subject's private experience it has 'only private validity [*nur Privatgültigkeit*]', and this taking something to be true *cannot be communicated* [*und das Fürwahrhalten lässt sich nicht mittheilen*].⁵³ Conviction, on the other hand, *can* be communicated. Kant explains as follows:

Truth, however, rests upon agreement with the object, with regard to which, consequently, the judgments of every understanding must agree (*consentientia uni tertio, consentiunt inter se*). The touchstone of whether taking something to be true is conviction or mere persuasion is, therefore, externally, the possibility of communicating it and finding it to be valid for the reason of every human being to take it to be true; for in that case there is at least a presumption that the ground of the agreement of all judgments, regardless of the difference among the subjects, rests on the common ground, namely, the object, with which they therefore all agree and through which the truth of the judgment is proved.⁵⁴

'[Because of] agreement with one thing they agree among themselves (*consentientia uni tertio, consentiunt inter se*)'. This is perhaps Kant's clearest account of what we have called, following Philonenko, 'objective communication'. If judgments are objectively valid, i.e., refer to an object, the judgments of subjects will agree and cognitive consensus will be achieved. If, on the other hand, the subject's grounds for taking his judgments to be true have merely 'private validity' (*Privatgültigkeit*), the possibility of communication is not guaranteed.

If our *Fürwahrhalten* is conviction, justified with reference to the object, the possibility of cognitive agreement is secured. Intersubjectivity is therefore, to use Philonenko's phrase, a 'function of objectivity'.⁵⁵ Nevertheless — and this is crucial — the converse is not the case. The fact of intersubjective agreement does not secure conviction. It is merely a 'touchstone' (*Probiertstein*) of conviction. For it is quite possible that our judgments harmonize for some other reason — we might, for example, all believe something because it is a fundamental tenet of our religion.⁵⁶ For Kant, cognitive consensus is only an *external* criterion of conviction; objectivity is not a function of intersubjectivity.

It is important to note that whilst conviction is dependent upon our judgments having the possibility of objective validity, our judgments only have this feature by virtue of the synthesizing activity of the transcendental subject or 'consciousness in general' (which is governed by the categories). It is this synthesizing activity which constitutes the realm of objects to which our judgements refer. Now, it is crucial to Kant's argument that we *all* possess this transcendental capacity and, moreover, possess it in the same way. For if subject A and subject B had qualitatively different cognitive powers they might constitute and judge the world differently. This would open up the possibility that our judgments fail to harmonize and this, as Kant noted in the Transcendental Deduction, provides a foothold for the skeptic.⁵⁷ Consequently, it is vital that the cognitive powers discussed in the first *Critique* and *Prolegomena* are valid for *all* subjects of experience.

Here a question emerges. How can Kant justify his assumption that we all have the same cognitive powers? In other words, with *what right* does Kant claim that transcendental subjectivity is, in the language of the *Prolegomena*, 'consciousness in general'? In order to answer this question it seems that the possibility of knowledge of other minds must be admitted by Kant's transcendental idealism. For it is hard to see how transcendental reflection upon one's cognitive capacities — the methodological approach of transcendental idealism — could justify the claim that the capacities discovered by such reflection are valid for everyone. In other words, there seems to be no way of justifying this claim except by reference to our knowledge of other human subjects of experience. Now, this knowledge must clearly be of the relevant kind. It must either provide direct awareness of the transcendental capacities of other agents or provide a suitable basis for inferences to such capacities. Here a second question emerges: can Kant's transcendental idealism (as articulated in the first *Critique*) account for the possibility of such knowledge?

Kant's answer to this question is — No, transcendental idealism cannot account for such knowledge. This is due to one of the most fundamental, and controversial, doctrines of transcendental idealism: Kant's strict distinction between phenomena and

noumena. Phenomena are objects of possible experience; we cognize these objects through the co-operation of sensibility and understanding. Noumena, by contrast, are uncognizable — we may *think* 'them', but can never cognize 'them' (for which intuition would be required).

Now, the transcendental, apperceptive self furnishes the necessary conditions of the possibility of the experiential, phenomenal world. It is the supreme condition of the possibility of experience. Consequently, it cannot be an object of experience (or phenomenon). Nevertheless, we can, Kant suggests, have a non-cognitive awareness — a 'feeling' (*Gefühl*) of our spontaneous, apperceptive selves through inner intuition.⁵⁸ There is therefore, regarding *my* self-awareness, a possibility of 'ascending' from the sensible to the fringes of the intelligible. However, the same cannot be said with respect to our knowledge of other human beings. Here, the 'gulf' between the phenomenal and the noumenal is insurmountable. We are, to be sure, aware of human beings as *bodies* within the causally governed, phenomenal world of nature. Yet this world is structured by our cognitive capacities. We cannot somehow 'step outside' of our cognitive capacities and grasp other subjects as they are 'in themselves'. We cannot have access to their non-cognitive awareness of their apperceptive selves (which is provided by *their* inner sense). And as spontaneity is apparently exhibited in no other way, we have no justification for inferring that they are spontaneous, intelligible beings. Kant states his position clearly in the *Paralogisms*:

In the transcendental aesthetic we have undeniably proved that bodies are mere appearances of our outer sense, and not things in themselves. In accord with this, we can rightfully say that our thinking subject is not corporeal, meaning that since it is represented as an object of our inner sense, insofar as it thinks it could not be an object of outer sense, i.e., it could not be an appearance in space. Now this is to say as much as that thinking beings, **as such**, can never come before us among outer appearances, or: we cannot intuit their thoughts, their consciousness, their desires, etc. externally; for all this belongs before inner sense.⁵⁹

Kant therefore openly acknowledges that we cannot know other spontaneous, intelligible beings (thinking beings '**as such**'). He also notes that it would 'be a great, or indeed the only stumbling block' to Critical philosophy, if it were possible to 'prove *a priori* that all thinking beings are themselves simples substances'. This is because such a proof would constitute a step 'into the field of **noumena**', a 'step' that would constitute a return to dogmatic metaphysics.⁶⁰ Transcendental idealism therefore cannot allow knowledge of other rational beings — they are cognitively inaccessible.

Given the impossibility of such knowledge, it seems that Kant cannot hope to justify the putative universal validity of transcendental subjectivity. Nevertheless, Kant attempts — in the opening section of the *Paralogisms* — to provide an alternative

justification for his claim. The crucial discussion is contained in the following paragraph which, despite its length, is worth quoting in full:

But right at the start it must seem strange that the condition under which I think in general, and which is therefore merely a property of my subject, is at the same time to be valid for everything that thinks, and that on an empirical-seeming proposition we can presume to ground an apodictic and universal judgment, namely, that everything that thinks is constituted as the claim of self-consciousness asserts of me. But the cause of this lies in the fact that we must necessarily ascribe to things *a priori* all the properties that constitute the conditions under which alone we think them. Now I cannot have the least representation of a thinking being through an external experience, but only through self-consciousness. Thus such objects are nothing further than the transference of this consciousness of mine to other things, which can be represented as thinking beings only in this way. The proposition "I think" is, however, taken here only problematically; not insofar as it may contain the perception of an existence (the Cartesian *cogito, ergo sum*), but only in its mere possibility, in order to see which properties might flow from so simple a proposition as this for its subject (whether or not such a thing might now exist).⁶¹

Kant therefore acknowledges that the claim that the 'I think' is universally valid for all finite subjects of experience is 'strange' (*befremdlich*). He justifies this claim by appeal to its 'cause' (*Ursache*) — the necessity of ascribing 'to things *a priori* all the properties that constitute the conditions under which alone we think them'. Now, this necessity has been justified regarding the spatio-temporal objects of possible experience. This, after all, is the point of Kant's arguments for the transcendental ideality of experience. However, it has *not* been justified regarding the 'things' (*Dingen*) in question here. For Kant's arguments concerning the necessity of ascribing to things *a priori* the conditions of the possibility of thinking them are premised on the *necessity of thinking* them. Kant has shown (in the Transcendental Deduction and Refutation of Idealism) that we *must* think objects if we are to grasp ourselves as subjects of experience. He has not, however, shown that we must think other subjects of experience. For why should we think certain phenomenal beings we encounter as intelligible, apperceptive beings? The necessity of this thought needs to be demonstrated.

The alleged justification — the necessity of *a priori* ascription — therefore rests on the unjustified assumption that we *must* think other subjects.⁶² Kant has not demonstrated this necessity and, consequently, his attempt to justify his claim concerning the universal validity of apperception collapses. Moreover, even if Kant *had* demonstrated the necessity of thinking other subjects it is hard to see what such thinking would involve. It would not be contentful (as no intuition of intelligible beings is possible) and would only be 'problematical' — only the thought of the possibility of such subjects. It would merely be the 'transference' (*Übertragung*) of my self-consciousness onto phenomenal beings.

Here a summary might be helpful. I have argued that Kant cannot justify his claim that the 'I think' is universally valid — possessed by all human subjects of experience. For,

in order to provide such a justification, he would either have to show that we can represent other subjects as apperceptive beings or provide an alternative justification. Now, the possibility of our having knowledge of such beings is foreclosed by transcendental idealism. Kant therefore argues that we must think such beings as apperceptive on the grounds that it is necessary to ascribe to things the conditions of the possibility of thinking them. Yet this argument rests on the necessity of thinking such beings, a necessity which Kant fails to argue for. Consequently, Kant's attempted justification fails.

Now the consequences of this failure are far-reaching, posing a serious threat to Kant's Critical epistemology. For, as noted previously, if Kant's claim concerning the universal validity of the 'I think' is groundless, the possibility arises that other subjects might constitute experience differently. If this possibility were realized, the objective and universal validity of our judgements would collapse, as would the cognitive consensus which is the 'touchstone' of this validity. Yet, it is not simply that Kant cannot justify the claim that other subjects of experience are similarly constituted to ourselves. It is rather that he cannot justify the claim that there are other subjects *at all*. For whilst I may interact and communicate with certain phenomenal beings as *though* they are rational beings, the possibility remains that they are not rational, apperceptive beings. And this will clearly have deep consequences for Kant's account of morality. In the next chapter we shall see what these consequences are.

NOTES

- ¹ This preoccupation is central to the work of first-generation critical theorists such as Adorno, Horkheimer and Sohn-Rethel.
- ² See Kojève, 1969.
- ³ See Habermas, 1974, pp. 142-169.
- ⁴ Honneth, 1995b.
- ⁵ FNR, §1.
- ⁶ Here Habermas' comments reveal the influence of Henrich's highly influential article 'Fichte's Original Insight'. According to Henrich, Fichte's concept of the 'self-positing I' is an attempt to avoid the aporias of the 'reflective theory' of self-consciousness, which finds the origins of self-consciousness in a reflective act of self-apprehension. Habermas, 1995b, pp. 144-147.
- ⁷ See section III of 'Individuation through Socialization: On George Herbert Mead's Theory of Subjectivity' in Habermas, 1992, pp. 149-204.
- ⁸ Honneth, 1995b, pp. 16-18.
- ⁹ Schelling, 1980, p. 94.
- ¹⁰ Hegel, 1977b.
- ¹¹ Hegel, 1977c, pp. 182-3.
- ¹² Throughout this essay the terms 'metaphysics' and 'metaphysical' will be used to refer to non-Kantian metaphysics, to those metaphysical systems which Kant regards as 'dogmatic'. For an excellent contemporary discussion of the nature of metaphysics which addresses Kant's criticisms, see Lowe, 2002, Ch. 1.
- ¹³ C1, B131.
- ¹⁴ Habermas, 1995b, p. 145.
- ¹⁵ Philonenko, 1999, p. 24. All translations of French texts are my own.
- ¹⁶ Philonenko, 1999 p. III.
- ¹⁷ Radrizzani, 1993. Renaut, 1986.
- ¹⁸ IWS, pp. 52, 4.
- ¹⁹ EPW, pp. 4-5.
- ²⁰ WSNM, p. 303. See C1, B59, A346/B404ff.
- ²¹ Philonenko, 1972, pp. 191-3. Philonenko, 1993, pp. 12-16. Philonenko, 1999, pp. 37-40.
- ²² See Kneller, 1981.
- ²³ Gardner, 1999, p. 280.
- ²⁴ C1, A 230.
- ²⁵ It might be objected that the term 'intersubjective validity' captures an important aspect of Kant's conception of the universal bindingness of certain rules and principles, namely, that such rules apply to all human subjects of experience. However, given the fact that Kant's Critical philosophy relies so heavily on this assumption, such terminological innovation seems redundant.
- ²⁶ Wellmer, 1998, p. 289.
- ²⁷ Apel, 1998a, p. 58.
- ²⁸ In what follows, the term 'subject of experience' refers only to human subjects of experience. I shall therefore drop the qualifier 'human'.
- ²⁹ Kant, 1999, p. 131. Where the English translation provides the German pagination I have, for ease of reference, given the latter.
- ³⁰ C1, B xvi.
- ³¹ Kant is *not* claiming that the world is somehow a figment, a 'projection' of occult mental powers. Nor is he advocating a form of immaterialism. For whilst our cognitive capacities are necessary conditions for the possibility of experience, they are not sufficient. To perform their constitutive function there must be something to be constituted, and this something, which is beyond the purview of our cognition (and can therefore only be postulated), is the 'thing in itself'.
- ³² C1, B128.
- ³³ C1, A 104.
- ³⁴ C1, A355-56. Kneller, 1981, p. 168.
- ³⁵ Prol., §18.
- ³⁶ Prol., p. 298. My emphasis. See also p. 299.
- ³⁷ Kant argues that the relation between objective and universal validity in judgements of experience is one of mutual entailment. Objective validity entails universal validity, insofar as objectively valid judgements refer to objects by virtue of the universal and necessary rules of synthesis (categories) that *all* subjects possess. Conversely, universal validity entails objective validity insofar as 'there would be no reason why other judgements necessarily would have to agree with mine, if there were not the unity of the object — an object to which they all refer, with which they all agree, and, for that reason must also *harmonize* among themselves.' Prol., §18. My emphasis. Kant summarizes his argument by claiming that 'Objective validity and necessary universal validity (for everyone) are [...] interchangeable concepts.'
- ³⁸ Prol., § 20, pp. 300, 301.
- ³⁹ This claim is highly problematic, insofar as the Transcendental Deduction emphasizes that *all* judgement presuppose the categories. C1, A120, A122, B131-2. Gardner suggests that Kant is 'admitting the (empiricist's) notion of a judgement of perception merely for the sake of argument'. Gardner, 1999, p. 163.
- ⁴⁰ Prol., pp. 300, 304.
- ⁴¹ Prol., p. 400. My emphasis.

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- ⁴² Prol., p. 300. My emphasis.
- ⁴³ C1, A355-56.
- ⁴⁴ Prol., p. 298.
- ⁴⁵ Philonenko, 1993, p. 38.
- ⁴⁶ Philonenko, 1993, p. 13.
- ⁴⁷ Philonenko, 1972, p. 191.
- ⁴⁸ C1, B167.
- ⁴⁹ C1, B168.
- ⁵⁰ C1, A820/B848-A831/B859. Given the obscurity of this account, I have also drawn upon the parallel argument provided in section IX of the Jäsche Logic.
- ⁵¹ Kant draws a distinction between two types of conviction — 'speculative' or 'theoretical' conviction, and 'practical' conviction. The latter is only subjectively justifiable, but rests upon 'firm belief'. C1, A824/B852. Such 'conviction' is involved in religious and moral belief.
- ⁵² C1, A820/B848. My emphasis.
- ⁵³ C1, A820/B848. My emphasis.
- ⁵⁴ C1, A820/B848 – A821/B849.
- ⁵⁵ Philonenko, 1999, p. 38.
- ⁵⁶ Religious belief is 'practical' conviction and is therefore only subjectively justifiable. C1, A824/B852.
- ⁵⁷ C1, B168.
- ⁵⁸ 'The representation of apperception, the I', is 'nothing more than a feeling of an existence without the least concept, and is only a representation of that to which all thinking stands in relation (*relatione accidentis*)'. Prol., p. 334, footnote. See Gardner, 1999, p. 148. As we shall see, this is precisely what Fichte means by 'intellectual intuition.'
- ⁵⁹ C1, A357.
- ⁶⁰ C1, B409-10.
- ⁶¹ C1, A345-347/B 404-405.
- ⁶² I owe this criticism to Radrizzani, 1985.

INTERSUBJECTIVITY AND PRACTICAL REASON

How important is a concern with intersubjectivity to Kant's account of morality? In order to answer this question, it might be helpful to consider those accounts of morality for which intersubjectivity is a *necessary* condition. Now, it seems that intersubjectivity is a necessary condition of an account of morality just in case morality would be inconceivable without interaction between agents. If this is correct, we could say that intersubjectivity is a necessary condition of certain versions of social contract theory insofar as morality would be unintelligible without the notion of a 'contract' or 'compact' between agents. The fact that this agreement is hypothetical is irrelevant; what *is* relevant is the fact that an agreement between agents is invoked. An exception is the contract theory of John Rawls which relies upon the thought experiment of an isolated agent. The 'original position' only refers to other agents *indirectly* — the contracting agent chooses only those principles which she assumes everyone could choose without conflict. There is no requirement that she interacts — actually or hypothetically — with other agents. Habermas has described Rawls' approach as 'monological', insofar as it is quite conceivable that ethical deliberation could be undertaken by a single, isolated agent.¹

Intersubjectivity is clearly a necessary condition of Habermas' own theory of 'discourse ethics' which claims that norms are only justified through rational argumentation between agents.² According to this approach, the essentials of which are also advocated by Apel and Wellmer³, moral deliberation and action depend, in the last instance, upon interaction between agents capable of speech and action.

Other ethical theories for which intersubjectivity is a necessary condition are certain versions of the 'ethics of care'⁴, which claim that concrete social relations are the source of moral obligation. For these theories, in the absence of such relations any talk of morality would be meaningless. Whether intersubjectivity can be regarded as a necessary condition of virtue ethics would seem to depend on which virtues are deemed to be essential, and which inessential. If virtues are considered to be essential, the exercise of which would be inconceivable without interaction with others (the so-called 'other-regarding' virtues such as generosity, justice, trustworthiness, etc.), then intersubjectivity would be a necessary condition of virtue ethics.

Intersubjectivity does not seem to be a necessary condition of most versions of utilitarianism insofar as calculations of utility can, at least in principle, be carried out independently of interaction with others. If other agents didn't exist the utilitarian agent could still seek to maximize utility for *herself* and other sentient beings (viz., animals). Furthermore, as both Rawls and Mackie have pointed out, the aggregative nature of utilitarianism leads to its not taking seriously the 'plurality and distinctness of individuals'.⁵ Utilitarianism regards individuals as parts of a social whole which can, if necessary, be sacrificed to promote the good of that whole. If this observation is correct, subjects and their interaction are of little importance to utilitarianism: it is overall utility that really matters.

It should be clear from the foregoing that intersubjectivity cannot be regarded as a necessary condition of Kant's account of morality. After all, Kant's ethics is concerned primarily with the relationship between the agent and an abstract practical principle, rather than with the relationship *between* agents. Nevertheless, although intersubjectivity cannot be described as a *central* concern of Kantian ethics, it *is* still a concern. We can begin to see this by considering the various formulae of the categorical imperative.

The most renowned formulation of the categorical imperative is the Formula of Universal Law (hereafter, 'FUL'): '*act only in accordance with that maxim through which you can at the same time will that it become a universal law*'.⁶ This formulation and its variant, the Formula of the Law of Nature (hereafter, 'FLN'): '*act as if the maxim of your action were to become by your will a **universal law of nature***'; have been persistently attacked by enemies of Kantianism. Indeed, most of the classical criticisms of the categorical imperative have identified the categorical imperative with these formulae.⁷ Thus, Hegel's charge that the categorical imperative is 'empty' rests upon the claim that even morally impermissible maxims are *universalizable*. Hegel's criticism therefore holds only of FUL and FLN. The other formulae remain untouched.⁸

Of the three other formulae — the Formula of Autonomy, the Formula of the Kingdom of Ends and the Formula of Humanity, the third is the most obvious alternative candidate for the 'supreme principle of morality'. The Formula of Humanity (hereafter, FH) runs as follows: '*So act that you use humanity, whether in your own person or in the person of any other, always at the same time as an end, never merely as a means*'.⁹

Strictly speaking, intersubjectivity is not a necessary condition of FH. For it would be possible, at least in principle, to act in accordance with FH even if no other rational beings existed (by treating humanity in my *own* person '*always at the same time as an end, never merely as a means*'). Nevertheless, assuming that other rational beings *do* exist, FH commands us to treat them as ends in themselves. As such, FH

allows us to see that Kantian ethics is not concerned solely with the relationship of the agent to an abstract moral principle, but with the nature of the relationship *between* agents. Now this relationship is of a specific nature — it requires us always to treat humanity as an end (in itself) and never merely as a means. In order to grasp the nature of this relationship, a brief summary of Kant's discussion of FH will be helpful.¹⁰

'Humanity' (*Menschheit*) has a specific meaning for Kant. It is used interchangeably with the term 'rational nature' and refers to the capacity to rationally choose and set ends.¹¹ This capacity does not, despite its name, belong solely to human beings. It is a capacity possessed by 'the human being and every rational being as such'.¹² Now, for Kant, every action has an end. The categorical imperative prescribes ways of acting that are universally binding on all rational beings. There must therefore be an end that is universally binding on all rational beings — insofar as they are rational they must will this end. This end must, as the end of the categorical imperative, possess 'unconditional value', its worth must not be conditional on any other ends. It must, Kant claims, be an 'end in itself.'

Kant contends that our 'humanity' or capacity for setting ends is an end in itself. It has absolute and unconditional worth. Kant reaches this conclusion by an 'analytic' or 'regressive' argument which seeks unconditioned value or absolute worth.¹³ Absolute worth cannot, Kant claims, be found in the objects of inclination, for the worth of these objects is contingent upon the inclinations whose objects they are. Nor can absolute worth be found in the inclinations themselves for, in Kant's opinion, finite rational beings — insofar as they aspire to be purely rational beings — would ideally wish to be free of these inclinations. Unconditioned worth is only to be found, Kant concludes, in 'humanity' — our capacity for rationally setting ends. Part of Kant's reason for this conclusion is that he thinks that our humanity has — in Korsgaard's words — 'value-conferring status'.¹⁴ He thinks, in other words, that objects possess worth precisely insofar as they are objects of our capacity for rational choice. For Kant, our capacity to rationally choose objects as ends is the source of their value; their value is conditional upon, and 'bestowed' by, this capacity. Humanity is therefore the 'source' of value.

Now, insofar as humanity is the source of value it has unconditional value. Humanity's value is not conditional on anything but itself; it alone has 'intrinsic' value. A being possessing such value is an 'object of respect' (*Gegenstand der Achtung*) which must never be treated '*merely as a means*'.¹⁵ The notion that humanity has unconditional value might appear to contradict Kant's claim that only a good will possesses unconditional value. However, this apparent contradiction disappears when we realize that humanity is the capacity to possess a good will. Humanity possesses unconditional value because, when fully developed and perfected, it is 'personality' or

the 'good will'. Insofar as rational beings possess the capacity for rationally setting ends they are potentially capable of possessing a good will. And this potential, Kant suggests, deserves respect *regardless* of whether it is realized or not.¹⁶

Having discussed Kant's argument for FH we shall now consider the specific nature of the intersubjective relationship that it prescribes.

Firstly, Kant tells us that humanity as an end in itself is to be understood as a 'negative' end as opposed to a 'positive' end. A positive end is one which we actively promote and seek to realize, whereas a negative end is an end 'which must never be acted against'.¹⁷ FH therefore does not exhort us to seek to actively develop the rational nature of ourselves and others. Rather, it tells us that we should *never* harm or interfere with such rational nature. Our respect for others' capacity for rational choice — their humanity — should prevent us from interfering with them.

Secondly, FH does not say that we may *never* treat the humanity in others and ourselves as a means. It says that we should never *merely* treat humanity as a means. FH therefore doesn't proscribe the use of the humanity of agents as a means. This qualification is important, insofar as treating agents as means seems to be an ineluctable feature of daily life. Thus, to provide an example, I treat the humanity of my postman as a means; I rely upon his capacity to rationally set ends (to decide upon the end of delivering my post and to will the means necessary to it). Such treatment is consistent with FH. All FH forbids is that I should treat him *merely* as a means; to treat him as *nothing more* than a convenient mechanism for delivering mail.

Thirdly, by telling us to respect the 'humanity' in other people, FH tells us that human beings deserve respect *independently* of circumstance and context. Race, gender, sexual preference, and 'social status' are, from the 'moral point of view', strictly irrelevant. It is the capacity for autonomous and rational choice — a capacity that is shared, at least potentially, by all human agents — that commands respect.¹⁸

FH therefore reveals a concern with *intersubjectivity* to be of considerable importance to Kant's ethics. The importance of this concern is reinforced by the formulation of the categorical imperative which commands us to legislate as if we were members of a 'kingdom of ends' (*Reich der Zwecke*) — a perfectly rational community in which the ends of individual and community are in total harmony.¹⁹

FH therefore seems a plausible alternative to FUL: It dispels the misleading impression that Kantian ethics is primarily concerned with the agent's relation to an abstract principle and offers a model for practical deliberation that is preferable to the highly problematic universalizability tests. Nevertheless, Kant does — in the *Groundwork* at least — seem to accord FUL a privileged role in practical deliberation.²⁰ Indeed, in discussing the system of formulae he claims that:

one does better always to proceed in moral *appraisal* by the strict method and put at its basis the universal formula of the categorical imperative: *act in accordance with a maxim that can at the same time make itself a universal law*.²¹

Assuming, *pace* Wood²², that the 'universal formula' is FUL, we are obliged to explain the apparent privilege Kant accords it over FH. Why doesn't Kant privilege the intuitively more plausible principle that is FH?

An answer to this question is to be found in Kant's conception of the relationship that obtains between *human* beings and the moral law. Kant regards human beings as imperfectly rational beings or (in the language of the second *Critique*) 'finite rational beings' — *endlichen vernünftigen Wesen*.²³ The fact that the human agent is a *finite* rational being has implications for her relation to the moral law. The moral law is an *idea* of reason which cannot be fully grasped by finite rational beings such as ourselves. Due to our cognitive limitations we can only grasp the moral law insofar as it is manifested in sensibility. In the section of the second *Critique* entitled the 'Typic of Pure Practical Judgement', Kant tells us that the moral law must be schematized — it must be exhibited in intuition.²⁴ Now the formulae of the *Groundwork*²⁵ are precisely schemata of the moral law — they are intended, Kant tells us, to bring an 'idea of reason closer to intuition (by a certain analogy), and thereby to feeling'.²⁶ They perform a *mediating* role that is analogous to the schematizing role of the imagination in the *Critique of Pure Reason*.²⁷

The formulae serve a vital practical function — they make it easier for us to grasp and act upon the moral law. As we have seen, this is certainly the case with FH which presents an intuitively plausible account of moral deliberation. Yet FH may perhaps bring the categorical imperative *too* close to intuition. For we may easily confuse the moral law *qua* FH with other commonly accepted principles of morality such as the 'Golden Rule', which Kant rejects on the grounds that adopting it is contingent upon our desiring aid from others ('... as you *would have them do to you*').²⁸ Furthermore, we may wrongly believe that actions motivated *solely* by feelings of love or sympathy for others satisfy FH. For Kant this is merely 'pathological' not 'practical' love, a love that is contingent upon our fickle sentiments and inclinations. Such a partial love cannot, in Kant's view, satisfy morality, which demands an *impartial* and *universal* respect for the humanity of all rational agents.

Given that we may be misled in these ways it is perhaps not surprising that Kant insists upon the 'strict method for moral appraisal' — the very 'method' advocated by FUL.²⁹ Consistently adopting and utilizing this method will, Kant suggests, amount to treating humanity in oneself or others '*always at the same time as an end, never merely as a means*'.³⁰ The CI procedure will therefore allow us to reach the moral point of view, the standpoint at which only those principles are chosen which are universally

valid, where to be universally valid is to apply universally and without exception to every rational being.³¹ In allowing us to reach the moral point of view, the CI procedure constitutes a second 'indirect' mode of communication which Philonenko terms 'indirect communication in action'. In this mode of communication, Philonenko claims, 'a consciousness ideally agrees and communicates with all other consciousnesses through the mediation of the moral law, whose subject it wills to be'.³²

However, as both Habermas³³ and Wellmer³⁴ have pointed out, there is a deep problem with this emphasis on the CI procedure. This problem lies in Kant's assumption that a 'monological' procedure of deliberation — a procedure that is performed by an isolated agent — can generate norms that are *intersubjectively valid*, i.e., norms which all agents could, in principle, agree upon. Following Wellmer, this criticism can be elaborated as follows.

Kant's requirement that I act only on maxims that I can will to be universal laws is, as Wellmer points out, 'identical in meaning' to the requirement that I should act only on maxims of which I can will that all others should act in accordance with them. However, Wellmer continues, Kant uncritically assumes that if I am unable to will that a maxim become a universal law, then '*any rational being will be similarly unable to do so*' and this means that the universalizability test is also 'a test of whether a maxim can command general approval', viz., be intersubjectively valid.³⁵ Now, one might suggest, as Philonenko seems to, that the universalizability procedure would guarantee uniformity of judgement — that every rational being who followed the CI procedure would, by virtue of following this procedure, produce the same judgement and therefore be able to agree with my judgement. However, this would be to assume that we all 'universalize' *in the same way* — that we are all capable of willing in the same way. And this assumption is, Wellmer argues, far from unproblematic. For it does not seem unreasonable to assume a quite different scenario, namely, that what an agent is capable of willing to be a universal law will be governed by a specific 'matrix of concepts' which determines the agent's interpretation of 'social reality' and her 'own needs'.³⁶ Thus, to take Wellmer's example, an authoritarian whose moral universe is defined by the extremes of obedience and insubordination would readily universalize a maxim enjoining us to punish insubordination. A liberal, on the other hand, would find such a maxim inherently non-universalizable. And we might think of countless other standpoints from which this maxim might be universalized. If this were the case, if there were a plurality of such 'matrices', then the possibility would arise that there could *never* be a rational consensus concerning moral judgement, that there could be no such thing as an *intersubjectively* valid moral judgement.³⁷

Kant, however, simply ignores such a possibility, assuming that we all judge in the same way by virtue of our all possessing the same rational capacities. He assumes

that the isolated deliberations of agents following the CI procedure will harmonize on the basis of the pre-established harmony of our faculties. Here we encounter the practical analogue of the theoretical problem of the objective validity of our cognitive judgements: the notion that our moral judgements are in harmony rests upon the unjustified assumption that we all share the same capacities. Unless such an assumption can be justified, the harmony of our moral judgements is threatened and the possibility arises that the moral universe is composed of a 'plurality of moral worlds' (Wellmer). Yet it is hard to see how, given Kant's inability (in the first *Critique*) to justify the assumption that we all possess the same cognitive capacities, such a justification is possible. For we are still faced with the apparently insurmountable division between the phenomenal and the noumenal. Furthermore, the *Groundwork* adds a new dimension to the problem of our cognition of other rational beings. In the first *Critique*, the other rational beings we sought to cognize were *finite subjects of experience* like ourselves, beings who possessed space and time as pure forms of sensible intuition. It was not a question of cognizing those *merely possible* beings who possess different forms of sensible intuition or the hypothetical *intuitive intellect* which produces the objects of its intuition. Kant's modal claims about such beings were merely intended to throw into relief the specific nature of our epistemic situation. With the *Groundwork* and the second *Critique*, however, things are somewhat different. For the beings who are ends in themselves and for whom the moral law is universally valid, are not simply finite human agents but 'the human being and every rational being as such'.³⁸ We belong to the class of rational beings insofar as we possess 'humanity' — the capacity for rational choice. But this capacity is a capacity we possess precisely insofar as we are *intelligible* beings and is therefore, given Kant's strict separation between the sensible and intelligible worlds, *not* an object of possible experience. Furthermore, even if Kant did not insist upon such a separation, his definition of rational beings is so vague that its reference is indeterminate; it is difficult to ascertain what, if anything, belongs to the class of rational beings. There are simply *no* informative criteria with which we might identify rational beings as such.

Kant therefore cannot justify his assumption that all rational beings possess the same rational capacities, and consequently cannot justify the claim that we all morally judge in the same way. This lack of justification results from Kant's inability to justify our claim to know other rational beings. Now, this last failing raises a crucial problem for the *application* of the categorical imperative. For the application of the categorical imperative is dependent upon my ability to identify such rational beings, for I am — according to FH — enjoined to treat such beings as ends in themselves. As Fichte puts it in an important letter to K. L. Reinhold of 29th August 1795:

[W]here is the boundary of all rational being? The objects of my actions are, after all, always appearances in the material world. To which of these appearances should I assign the concept of rationality and to which should I not? [...] "You know the answer to this question all too well", Kant would have to reply. Correct as this reply is, it is nevertheless anything but a philosophical reply. I ride a horse without asking its permission and without wishing to have it ride me in turn. Why do I have more qualms when it comes to the man who lends me the horse? The fact that the poor animal cannot defend itself is quite beside the point. Thus it will always remain a very delicate question whether, though my act is supported in this case by general opinion, I am not just as unjustified in riding a horse as the Russian nobleman is when he gives away his serfs, or sells them, or beats them for the fun of it—for his act too is supported by general opinion.³⁹

Kant's envisaged response is 'anything but' philosophical insofar as it fails to provide *justification* for our putative knowledge of rational beings. The *fact* that we are apparently capable of recognizing such beings is philosophically irrelevant. The critical question — the *quid juris*, concerns our justification for such an assumption and for our recognition of other rational beings. Fichte also recognizes that an answer to the critical question will consist in distinguishing rational beings from other sentient beings, and in justifying this distinction. The justification for this distinction will also, Fichte suggests, justify our treatment of certain sentient beings. For the categorical imperative only governs our treatment of *rational beings*, and has no direct relevance to our treatment of non-rational beings.⁴⁰

We have therefore seen that, although intersubjectivity may not be a necessary condition of Kant's account of morality, it is still of considerable importance to it. We have also seen that Kant's inability to justify our claim to know other rational beings poses a serious threat to the applicability of the moral law. For the successful application of the categorical imperative depends upon our capacity to identify those beings who we are supposed to treat as ends in themselves. Having concluded our discussion of Kant's account of practical reason, let us now turn to his account of the unity of reason.

Notes

- ¹ Habermas, 1996a, p. 66.
- ² For a programmatic statement of Habermas' discourse ethics see Habermas, 1996a, pp. 43-116.
- ³ Although Wellmer is highly critical of the foundationalism and commitment to a consensus theory of truth that he considers to be characteristics of discourse ethics, he nevertheless seeks to defend its 'basic intuitions'. Wellmer, 1991, p. 117.
- ⁴ I say 'certain' versions of the ethics of care, because writers such as Noddings claim that the appropriate relation of care may hold between humans and animals. For Noddings, it is the nature of the relationship that is crucial, irrespective of the species of the parties involved. See Noddings, 1984, pp. 149-155.
- ⁵ Rawls, 1971, p. 29. Mackie, 1984. As Mackie stresses, this is *not* to say that utilitarianism is committed to the ontological claim that individuals do not exist. It is simply to say that, for purposes of practical deliberation, the separateness of individuals is ignored. Mackie, 1984, p. 86.
- ⁶ G, p. 421.
- ⁷ Wood, 1999, pp. 82-83.
- ⁸ Wood, 1990, Chs. 8 & 9, pp. 144-174.
- ⁹ G, p. 429.
- ¹⁰ The following summary of Kant's argument is indebted to Korsgaard's reconstruction of it. Korsgaard, 1996, pp. 106-132.
- ¹¹ Eisler, 1994, pp. 487-8.
- ¹² G, p. 428.
- ¹³ G, pp. 428-9.
- ¹⁴ Korsgaard, 1996, p. 122.
- ¹⁵ G, p. 428.
- ¹⁶ Korsgaard, 1996, pp. 114, 123-4. Eisler, 1994, pp. 926-7. G, p. 402. C2, p. 87.
- ¹⁷ G, p. 437.
- ¹⁸ It must be admitted that Kant himself did not reach the impartial moral point of view entailed by FH. For a representative sampling of Kant's sexist and racist views see Wood, 1999, p. 3.
- ¹⁹ G, pp. 434-5.
- ²⁰ As Korsgaard points out, all of the duties described in the 'Metaphysical Principles of Virtue' (in the *Metaphysics of Morals*) are derived from FH. Korsgaard, 1996, p. 124.
- ²¹ G, p. 437.
- ²² Wood contends that the 'universal formula' is a statement of the Formula of Autonomy, on the grounds that the phrase '*make itself a universal law*' suggests self-legislation. Wood, 1999, pp. 188-9. Nevertheless, the phrase 'strict method' seems to suggest a *procedure* for moral deliberation such as is recommended by FUL. Perhaps Kant is claiming that one should follow FUL on the basis of the Formula of Autonomy.
- ²³ Perfectly rational beings would be beings possessing a 'divine' or 'holy will' — there would be a perfect coincidence between the subjective principles upon which such a being wills (its maxims) and the objective laws of practical reason (which are universally valid, valid for *all* rational beings). G, pp. 408, 412-4. Consequently, a perfectly rational being would not experience moral laws as *imperatives*; 'the "ought"', Kant tells us, 'is out of place here'. G, p. 414. In the case of an imperfectly rational being there is no guarantee of such coincidence — the agent's maxims would not necessarily conform to objective practical laws. Consequently, such an agent would experience objective practical laws as *commands* of reason (which are formulated as imperatives). Now, human beings are *imperfectly* rational beings. Their capacity for impartial rationality is always in tension with their partial 'needs and inclinations' which constitute a powerful 'counterweight' to the demands of the moral law. G, p. 405. There is a fundamental and irremediable rift between the rational and empirical aspects of human nature — Kant regards human agents as beings that are constantly tempted to privilege their specific inclinations over universal reasons (reason that are valid for *all* rational beings). G, p. 405. As Kant famously puts it in *Idea for a Universal History with a Cosmopolitan Aim*, 'Nothing straight can be constructed from such crooked timber [*aus so krummen Holze*] as that which man is made of.' PW, p. 46. GS, VIII, p. 23. Translation modified.
- ²⁴ C2, pp. 67-71.
- ²⁵ In the second *Critique*, Kant suggests that only FLN is a schemata of the moral law. C2, p. 69. Nevertheless, in the *Groundwork*, Kant appears to think that *all* the formulae are schemata of the moral law. See G, p. 437.
- ²⁶ G, p. 436.
- ²⁷ As Kant points out, the analogy is not perfect insofar as the 'typic' exhibits the moral law in a law of the understanding, not (as in the case of the first *Critique*) in a pure form of sensible intuition.
- ²⁸ See footnote to G, p. 430.
- ²⁹ G, p. 437.
- ³⁰ G, p. 429.
- ³¹ See G, p. 438.
- ³² Philonenko, 1999, p. 38.
- ³³ Habermas, 1974, pp. 150-1.
- ³⁴ See Wellmer, 1991, pp. 123, 135.
- ³⁵ Wellmer, 1991, p. 123. See also Wellmer, 1998, pp. 308-9.
- ³⁶ Wellmer, 1991, pp. 135-6.
- ³⁷ Wellmer, 1991, p. 137.

³⁸ G, p. 428.

³⁹ EPW, p. 408.

⁴⁰ Fichte, like Kant, maintains that we have no juridical or moral obligations towards animals. SW, IV, p. 275. However, this does *not* mean that we may treat animals in any way we wish. For the ill treatment of *any* creature may weaken both our moral sensibility and that of our fellow beings, with the consequence that morality itself is threatened. As rational beings, it behoves us to treat all animals with respect. This is, of course, a determinedly 'anthropocentric' perspective, insofar as it regards human beings as the source and locus of value. For a helpful discussion of the place of natural beings in Fichte's ethical and political philosophy see Perrinjaquet, 1996.

INTERSUBJECTIVITY AND THE UNITY OF REASON

In recent Kant scholarship several writers have claimed that intersubjectivity is crucial to Kant's third *Critique* — the *Critique of the Power of Judgement*. Cassirer, Arendt and Philonenko have all pointed to the fact that relationships between human beings play a crucial role in both the assessment and formation of aesthetic judgements.¹ Philonenko has even gone so far as to claim that the *Critique of the Power of Judgement* 'is an attempt to solve the central problem of modern philosophy: intersubjectivity'.² If intersubjectivity plays such a crucial role in the third *Critique*, it does not seem unreasonable to assume that it plays a central role in the 'official task' of the third *Critique* — namely, the task of securing the unity of the Critical philosophy by providing a 'transition' (*Übergang*)³ between the 'two worlds' of theoretical and practical reason. We might even ask whether intersubjectivity plays a role in Kant's earlier attempts to establish the unity of the Critical philosophy. In what follows I shall argue that intersubjectivity plays a central role in two important attempts to establish the unity of the Critical philosophy — the third *Critique* and the 1784 essay *Idea for a Universal History with a Cosmopolitan Aim*. I shall begin with the earlier work and then proceed to a discussion of the third *Critique*.

As is well known, the search for the unity of reason amounts to the attempt to unite theoretical and practical reason. It seeks to bring systematic unity to the Critical philosophy, uniting the first and second *Critiques* and their respective domains — nature and freedom. Yet this systematic concern is only part of the story. For the search for the unity of reason is also a search for a *total conception of the human being*, a conception which unites the partial conceptions of the first and second *Critiques*. The agent of the *Critique of Pure Reason* is the human being as a 'theoretical' being. This agent is, regarded as a 'transcendental' subject, the spontaneous 'author' of the laws of nature. Yet this agent is also, regarded 'empirically', a natural, 'phenomenal' being — a being subject to the mechanistic laws of nature. The agent of the *Critique of Practical Reason* is the human being as a practical being. This agent is subject to natural needs and inclinations. Yet it is also — as a rational, 'noumenal' being — capable of acting autonomously, in accordance with the moral law. Now, given Kant's strict separation between phenomena and noumena — between the domains of nature and freedom — it is hard to see how these aspects

of the human being are related. The possibility of a relationship between the 'theoretical' and 'practical' aspects of the human being seems foreclosed. And this would lead to serious problems for Kant's account of morality, rendering unintelligible the concepts of moral action and responsibility. For it would be hard to see how, given such a separation, the human being could act freely in the world, or how he could be held responsible for actions which, being nothing more than natural events, are to be explained solely in terms of natural laws.⁴ If Kant's account of morality is to be intelligible, the theoretical and practical aspects of the human being must be related. The possibility of a transition must be secured. Now it seems there are two possible ways of securing this transition, which are distinct from one another. The first way consists in discovering a faculty, domain or discipline which mediates between theoretical and practical reason. This way might be described as 'structural' insofar as its concern is primarily architectonic. The second way consists in providing an account of the process whereby humanity arises from its merely natural, theoretical being to freedom in accordance with the moral law. This way might be described as 'genetic' insofar as it is concerned to give an account of the realization of practical reason as full practical rationality. These two ways of bridging the transition are, in principle, distinct. Nevertheless, Kant seems to draw upon both in his attempt to secure the unity of reason. In what follows, this should be borne in mind.

Kant's first attempt to secure the unity of reason is to be found in his early essay *Idea for a Universal History with a Cosmopolitan Aim* of 1784. The notion that this essay seeks to provide an account of the unification of theoretical and practical reason might seem rather surprising. For the main task of this brief essay seems to be to provide an outline of a Critical account of history. Nevertheless, as Renaut has pointed out⁵, a concern with the problem of the unity of reason is clearly signalled by its opening sentence:

Whatever conception of the freedom of the will one may form in terms of metaphysics, the will's manifestation in the world of phenomena, i.e. human actions, are determined in accordance with natural laws, as is every other natural event.⁶

'History is concerned', Kant continues, 'with giving an account of these phenomena, no matter how deeply concealed their causes may be, and it allows us to hope that, if it examines the free exercise of the human will *on a large scale*, it will be able to discover a regular progression among freely willed actions'.⁷ The aim of history is therefore to discern the progressive realization of freedom in the apparently senseless and naturally determined course of human affairs. By examining human history '*on a large scale*', viz., by being a *universal* history, it hopes to discover rationality and meaning in the career of the human species. Now, the realization of freedom in history is

dependent upon the establishment of 'a *civil society* that can administer right universally' (*einer allgemein das Recht verwaltenden bürgerlichen Gesellschaft*), a society possessing a 'perfectly right civil constitution' (*eine vollkommen gerechte bürgerliche Verfassung*).⁸ It is only within such a society that freedom can be realized. The notion of a perfectly 'right'⁹ society therefore seems to play a crucial role in Kant's argument. Indeed, as Renaut has argued, Kant seems to present the domain of right as the domain in which theoretical and practical reason are united. And it is this idea that will play a crucial role in Fichte's decision to construct a philosophy of 'natural right'.

The specific nature of the domain of right and its importance for Fichte's philosophy will be discussed in Part II. Here I will limit myself to a brief explanation of the way in which the domain of right might unite theoretical and practical reason. The laws of a society that is in conformity with right are similar to natural laws insofar as they serve as a *mechanism* to regulate human behaviour. Yet these laws are instituted and created by human agents, they must therefore be regarded as products of freedom. Furthermore, insofar as these mechanical laws guarantee the 'external' conformity of human actions to the moral law, they secure the possibility of genuinely moral and autonomous action — action that is freely done *from* duty. Right serves, then, as the condition of the possibility of morality and freedom by virtue of its mechanical, 'quasi-natural' regulation of human behaviour. In this way the realization of freedom in the world of phenomena is secured.

A perfectly right civil society is to serve as the realm in which nature and freedom are united. But what prompts the historical emergence of such a society? And how, given humanity's natural disposition towards evil — the fact that the human being is, to use Kant's lapidary phrase, fashioned from 'crooked timber' (*krummen Holze*) — *could* such a society emerge?¹⁰ In the 1784 essay Kant's answer to both of these questions is to be found in his teleological conception of nature as possessing an 'aim' or 'definite plan' (*einem bestimmten Plane*).¹¹ Kant suggests that we think of nature 'as if' (*als ob*) it had arranged things so that humanity unintentionally develops its rational capacities. The means nature uses to achieve this, Kant tells us, is the '*unsocial sociability*' (*ungesellige Geselligkeit*) of human beings — 'their tendency to come together in society, coupled, however, with a continual resistance which continually threatens to break this society up'.¹² This unsocial sociability presents a complex pattern of interaction. The human being has an inclination to live in society, since this is where he feels able to develop his natural capacities. Yet he also has a competing tendency to isolate himself, to live as an individual, insofar as he desires to direct everything according to 'his own ideas' (*nach seinem Sinne*).¹³ The human being expects everyone to resist his projects, and knows that he will resist the projects of

others. This resistance, Kant claims, awakens the human being's capacities and forces him to overcome his natural 'laziness'. Human beings are forced to develop their capacities in order to resist and, ultimately, dominate other human beings: through the 'desire for honour, power or property' (*Ehrsucht, Herrschsucht, Habsucht*) the human being is driven 'to seek status among his fellows whom he cannot *bear* yet cannot *bear to leave*'.¹⁴ Now, the conflict engendered by these tendencies is potentially fatal — it would be 'impossible' for human beings to 'exist side by side for long in a state of wild freedom'.¹⁵

The threat of mutual destruction forces human beings to exit the state of nature and establish a civil society. Within civil society the negative aspects of the human being's unsocial sociability are prohibited insofar as they conflict with right. Shorn of these aspects, the human being's unsocial sociability serves a positive function. The conflict and competition between human beings, which was so pernicious in the state of nature, leads to the progressive development of their capacities. The will to dominate one another serves as the motor of progress and the inherent 'crookedness' of human beings is gradually transformed into rectitude. Humanity therefore progresses toward a perfectly right society by means of its tendency towards 'unsocial sociability'.¹⁶ As Kant puts it:

once enclosed within a precinct like that of civil union, the same inclinations have the most beneficial effect. In the same way, trees in a forest, by seeking to deprive each other of air and sunlight, compel each other to find these by upward growth, so that they grow beautiful and straight — whereas those which put out branches at will, in freedom and isolation from others, grow stunted, bent and twisted. All the culture and art which adorn mankind and the finest social order man creates are fruits of his unsociability.¹⁷

Humanity therefore undergoes a dialectical process in which the human being's conflict-producing and asocial tendencies are transformed into their opposites. This process might, following Philonenko and Renaut¹⁸, be described as a 'ruse of nature', by way of analogy with Hegel's 'ruse of reason'.¹⁹ For the dialectic takes place 'behind the backs' of human beings — human beings unwittingly realizing the plan of nature in their conflicts and crises. The analogy breaks down, however, in the status Kant accords this 'ruse': for it is merely a regulative idea, a heuristic device with which to think the history of humanity.

Kant thus presents intersubjectivity as fundamentally conflict-producing. We are caught in an agonistic struggle to assert our individuality through interaction with others. Kant has little to say about modes of intersubjectivity which might be described as 'positive' — love, sympathy, friendship, respect, etc. The Kantian state of nature is, in its emphasis upon conflict, close to that of Hobbes, in which men — who are little better than 'wolves'²⁰ — are engaged in a constant 'warre [...] of every man, against

every man'.²¹ Indeed, Kant ridicules those writers (presumably Rousseau and Locke) who present the state of nature as a peaceful, innocent state: 'an Arcadian, pastoral existence of perfect concord, self-sufficiency and mutual love'.²² If human beings lived in such a state of ovine bliss, Kant argues, they would have no incentive to develop their natural capacities; they would be as docile as the sheep they tend. The human being might desire concord but 'nature, knowing better what is good for his species, wishes discord'.²³ Of particular interest here is Kant's inclusion of a desire for 'honour' (*Ehrsucht*) amongst the potential sources of discord. For Kant recognizes that human beings have a desire to be recognized or honoured by other human beings. He recognizes, in other words, that being acknowledged by others is as important as the acquisition of power and material goods. The origin of this notion is, of course, Hobbes' notion of 'Glory' and Rousseau's notion of '*amour propre*'. As we shall see in the second part of this study, this notion is crucial to Fichte's conception of 'recognition' (*Anerkennung*).

Kant's emphasis on 'unsocial sociability' means that he places intersubjectivity at the heart of his 1784 solution to the problem of the unity of reason. For it is a mode of intersubjectivity which triggers the establishment of a civil society and, within this society, contributes to the development of humanity.

We have therefore seen the extent to which an agonistic conception of intersubjectivity plays a central role in Kant's early attempts to link theoretical and practical reason. Now this conception of intersubjectivity is not only to be found in Kant's early work. It also occurs in §83 of the second part of the *Critique of the Power of Judgement* — 'On the ultimate end of nature as a teleological system'. In this section, Kant considers the way in which the human being can be regarded as the ultimate end of nature as a teleological system. The end to be promoted could, Kant claims, be either the kind of end that could be fulfilled by the 'beneficence' of nature, or be the 'aptitude' and 'skill' for all sorts of ends for which the human being can use both 'outer' and 'inner' nature. The former end is the earthly 'happiness' of the human being. The latter end is the 'culture' of the human being. Kant dismisses the notion that human happiness could be the ultimate end of nature for two reasons. Firstly, because happiness is a variable and unstable concept, there could be no universal law which would govern the satisfaction of happiness. Secondly, nature does not seem to have been especially benevolent to the human being. For nature has subjected the human being to the dangers of the environment and other animals.²⁴ And even if such 'external' dangers were absent, the human being's inner nature would prevent his attaining happiness. As Kant puts it, the 'conflict in the **natural predispositions**' of the human being reduces him and his species 'by means of plagues that he invents for himself' to extreme need and indigence.²⁵ Culture, not happiness, must therefore be

the ultimate end of nature. Kant defines culture as the 'production of the aptitude of a rational being for any ends in general (thus those of his freedom)'. This aptitude is an aptitude for 'setting himself ends at all and (independent from nature in his determination of ends) using nature as a means appropriate to the maxims of his free ends in general'.²⁶ In seeking to produce culture, and therefore such an aptitude, nature intends that the human being should develop a capacity to choose his ends freely — viz., independently of natural needs and inclinations. Having developed such a capacity the human being can then attempt to realize his highest goal or 'end' — the end of being a totally free and autonomous agent. Nature's highest end — the development of culture — therefore serves to promote the human being's highest end.

Now, there are two conditions of culture *qua* the production of the aptitude for freely choosing ends. These conditions, which are both forms of culture, are individually necessary and jointly sufficient. The first condition is the 'culture of **skill**', which might be described as the technical ability to realize ends. It is, Kant claims, 'the foremost subjective condition of the aptitude for the promotion of ends in general'.²⁷ Yet it is not sufficient for promoting freedom in the choice of ends, which is 'essential for an aptitude for ends'. Another form of culture is required, which Kant calls the 'culture of training (discipline)'. This form of culture is 'negative' insofar as it consists in liberating the will from 'the despotism of desires'. The culture of training disciplines us to resist the pull of the inclinations and therefore allows us to choose our ends freely. Kant discusses the development of these two forms of culture in turn.

The progressive development of the 'culture of skill' can only be attained, Kant claims, by means of 'inequality' amongst people.²⁸ This inequality takes the form of a division between two classes — an oppressed majority and an oppressive minority. The majority satisfy the material needs of society 'mechanically', their *unskilled* labour providing for the 'comfort and ease' of the minority. The majority are oppressed and dominated by the minority, their labour providing them little pleasure. The minority, liberated from the hardships of manual labour, are left free to pursue intellectual labour. They devote their lives to cultivating the 'less necessary elements of culture, science and art' which, as if by way of compensation, gradually spread to the majority. This state of extreme inequality is, Kant claims, deeply unstable and volatile. With the progress of this 'culture of skill' crises and 'calamities' increase on both sides. On the side of the majority these calamities are due to 'violence imposed from without' — the hardships of manual labour, poverty and domination. On the side of the minority these calamities are due to 'violence imposed from within' — by which Kant presumably means the hardships of profligate living and intellectual labour. Here the 'unsocial sociability' of the 1784 essay has been replaced by an almost Marxist conception of class struggle (*almost* Marxist, because Kant focuses primarily on the crises *within*

classes, rather than those occurring between them). Yet, as in the 1784 essay, this agonistic relationship undergoes a dialectical reversal, humanity unwittingly realizing nature's end. As Kant puts it, 'this splendid misery is bound up with the development of the natural predispositions in the human race and the end of nature itself, even if it is not our end, is hereby attained'.²⁹ Such development is only possible, as in the 1784 essay, in a law-governed civil society which regulates individual liberty. It is only within such a society (which itself presupposes a cosmopolitan federation of states) that the culture of skill can be fully developed.

The culture of skill, however, is insufficient for culture *qua* the production of the aptitude for *freely* choosing ends. For skill is a merely technical mastery of ends, a capacity to determine and control the realization of ends. The ends themselves are not determined by skill, and may be dictated by our natural inclinations. A culture of training or discipline is therefore necessary, and Kant discusses this culture under the rubric of a 'discipline of the inclinations'. According to Kant, nature still exhibits a certain purposiveness regarding this second condition of culture; it displays 'a purposive effort at an education to make us receptive to higher ends than nature can afford'. This effort is manifested in the gradual development of the 'insatiable host' of inclinations that are aroused by the 'refinement of taste to the point of its idealization, and even by indulgence in the sciences as nourishment for vanity'.³⁰ Here Kant paints a picture of a thoroughly decadent society in which the arts and sciences are responsible for many evils; a picture that is clearly inspired by Rousseau's first *Discourse*. Yet Kant, unlike Rousseau, sees the development of this society as positive insofar as the 'crudeness and vehemence' of these inclinations are gradually refined. Our merely animal inclinations are gradually transformed and mastered, leaving room for the emergence of a capacity for rational, autonomous choice. Kant sees the development of the 'beautiful arts and sciences' as serving a socially ameliorative function:

Beautiful arts and sciences, which by means of a universally communicable pleasure and an elegance and refinement make human beings, if not morally better, at least better mannered for society [*für Gesellschaft, wenngleich den Menschen nicht sittlich besser, doch gesittet machen*], very much reduce the tyranny of the sensible tendencies, and prepare humans for a sovereignty in which reason alone shall have power [...].³¹

This 'universally communicable pleasure' which is associated with the 'beautiful arts and sciences' makes the human being 'better mannered for society' and therefore capable, at least in principle, of becoming moral. By guaranteeing the human being's conformity with the mores and manners of society, aesthetic experience secures a sphere in which he may act morally. Now this universally communicable pleasure results from a specific mode of intersubjectivity which we could, following Philonenko,

call 'aesthetic communication'. This mode of communication is, unlike its theoretical and practical counterparts, a *direct* mode of communication which requires neither the mediation of an object nor the moral law. As such, it requires neither theoretical nor practical concepts, and may therefore be described as 'non-conceptual'.³² In aesthetic communication, Philonenko claims, 'man directly encounters man without a concept'.³³

This aesthetic mode of intersubjectivity stands in stark contrast with the mode of intersubjectivity associated with the culture of skill. For aesthetic communication is *pacific*; it serves to unite human beings through a commonality of feeling. By contrast, the mode of intersubjectivity associated with the culture of skill is, like the 'unsocial sociability' of the 1784 essay, profoundly agonistic. What is of particular interest here is the way in which this new mode of intersubjectivity eclipses the agonistic mode. This is evinced by the fact that much of the first part of the third *Critique* is devoted to a discussion of aesthetic communication, and by the fact that the culture of discipline with which it is associated is said to be 'essential'. An important consequence of this foregrounding of aesthetic communication is a demotion of the notion of a civil society in conformity with right. Insofar as aesthetic communication promotes mores and manners, and stimulates an appreciation of beauty (which is the symbol of morality), it serves to prepare human beings for morality, a task initially assigned to the domain of right. The mediating function of right is now assigned to the domain of aesthetic experience.³⁴ Philonenko describes the mediating function of aesthetic communication as follows:

In the idea of a direct communication between different subjects through and in the judgement of taste, Kant tries [...] to present the mediation which founds the passage from the world of nature and cognition to the suprasensible world, which is the world of freedom. On the one hand, aesthetic communication is linked with the sensible; as such it is connected with the communication founded in cognition which presupposes the wholly human forms of sensibility. On the other hand, aesthetic communication is also linked with the suprasensible world: not only is beauty the symbol of the good but the aesthetic judgement is also based upon freedom, which expresses itself in the play of the faculties of the soul and in the absence of all constraint.³⁵

Aesthetic communication therefore serves to mediate between theoretical and practical reason, and their characteristic modes of communication. It is a 'non-conceptual' and direct mode of communication. Yet it is also, Kant claims, *normative*. How, then, are these characteristics related? Are the normativity and non-conceptuality of aesthetic communication compatible? An answer to these questions is to be found in Kant's discussion of aesthetic judgements in the third *Critique*. I shall begin by discussing Kant's claim that judgements of taste are normative and then proceed to his claim that they are non-conceptual.

It is a commonplace to regard aesthetic judgements, or judgements of taste, as simply expressing our own personal preferences. Thus, my saying that I find x

'beautiful' might be regarded as an expression of personal taste. It might therefore be surprising to learn that Kant claims that a pure judgement of taste is inherently *normative*.³⁶ For Kant, a pure aesthetic judgement is not merely an expression of personal preference — it contains an implicit 'demand' (*Forderung*) that *everyone* should agree with my judgement, that everyone should also declare *x* to be 'beautiful'. Kant speaks of this demand as an *aesthetic* 'ought' (*Sollen*).³⁷

Kant's notion of the normativity of taste is intimately connected with his claim that taste is a social phenomenon. A judgement of taste, in demanding that everyone should agree, links us with the community of other human beings. In judging aesthetically we speak as though with a 'universal voice' (*allgemeine Stimme*) which lays claim to the 'consent' (*Beitritt*) of everyone.³⁸ Kant even goes so far as to suggest that aesthetic pleasure is grounded upon the possibility of communicating and sharing our aesthetic experience with others.³⁹

According to Kant, in making a judgement of taste I tacitly demand the 'assent' (*Beistimmung*) of everyone. Thus my claim that '*x* is beautiful' implicitly contains the demand that everyone should judge '*x* to be beautiful', or to use Kant's terminology, that the judgement is 'universally valid'. Now there may not be actual agreement — others may actually experience real displeasure in the object I find beautiful. Yet Kant thinks this is of little significance. For my aesthetic claim is made *a priori*; it is, in principle, independent of, and incapable of being influenced by, what others actually feel. But how can such a claim be justified? I make the claim, Kant says, on the assumption that it is *possible* for everyone to experience the same feeling of pleasure as I do. This assumption rests on the notion that others possess the same cognitive capacities as I do — understanding and imagination — and that these capacities function in the same way in aesthetic experience. I therefore make my judgement on the assumption that everyone is cognitively 'wired-up' in the same way as I. I presuppose that everyone shares the same sense — that there is a 'common sense' (*Gemeinsinn*) or *sensus communis*. This presupposition is justified, Kant argues elsewhere, by the fact that communication would be impossible if we did not possess the same cognitive faculties.⁴⁰

Agreement is therefore guaranteed *a priori*: it is secured by the fact we all share the same cognitive capacities. But this only tells us the conditions upon which agreements about judgement of taste — if there are any such agreements — rest. It does not tell us how agreement takes place, or how, if at all, we can resolve disagreements. It seems that some account must be given of how we can *justify* our aesthetic judgements to those who refuse to accept them. Such justification would seem to be crucial to the normativity of aesthetic judgement. After all, if I say (or imply) that you *should* do something or hold a certain belief, it seems that — if my claim is to

have any normative force — it must, at least in principle, be justifiable. And this defence characteristically consists in offering *reasons* for the recommended belief or action; reasons which could, in turn, be questioned. Now, as writers such as Brandom and Habermas have argued, this process of justification, this practice of ‘giving and asking for reasons’, is an essentially social practice. Justification is primarily an intersubjective affair; reasons are given in dialogues *between* agents. The notion that justification is characteristically the activity of an isolated reflecting individual is, these writers suggest, a violent abstraction.⁴¹

According to this ‘intersubjectivist’ conception of justification, a satisfactory account of normativity must also provide an account of how normative claims are justified or redeemed through dialogue or interaction. Such an account seems to be provided by Kant in the section of the third *Critique* entitled ‘Taste as a Kind of Sensus Communis’. The following quote is taken from Kant’s central account of the *sensus communis*:

By “*sensus communis*,” [...] must be understood the idea of a **communal** sense, i.e., a faculty for judging that in its reflection takes account (*a priori*) of everyone else’s way of representing in thought, in order **as it were** to hold its judgement up to human reason as a whole and thereby avoid the illusion which, from subjective private conditions that could easily be held to be objective, would have a detrimental influence on the judgement. Now this happens by one holding his judgement up not so much to the actual as to the merely possible judgements of others, and putting himself into the position of everyone else, merely by abstracting from the limitations that contingently attach to our own judging; which is in turn accomplished by leaving out as far as is possible everything in one’s representational state that is matter, i.e., sensation, and attending solely to the formal peculiarities of his representation or his representational state.⁴²

Now, although Kant describes this as a ‘**communal** sense’ and refers to our relations to others, dialogue or interaction are mentioned nowhere here. Kant does *not* provide us with any maxims for *reasoning with others*. He merely provides us with maxims for the formation of judgement. His instruction to compare our view with the views of others is only metaphorical — ‘*as it were*’. We are told to adopt an ‘enlarged way of thinking’ — to put ourselves in the standpoint of others, and to reflect on our judgement from this ‘universal standpoint’.⁴³ But this standpoint is to be reached, Kant tells us, by removing all ‘matter’ from our representations, so that we are left with nothing but the bare form of our representational states. Presumably, once I have reached this standpoint, any claims I make will be entirely transparent to others provided they possess the same cognitive capacities as I do. What is missing from this account is any sense of our *reaching* agreement through a process of dialogue — of advancing from our partial, prejudiced standpoints to rational agreement. Indeed, Kant’s process of abstraction could — like the CI procedure — be achieved by the private deliberation of a private individual; there is no reason why this process should depend upon interaction with others.⁴⁴ Furthermore, we can never be sure if we have adopted the

standpoint of the *sensus communis*. Kant tells us to abstract from the private 'matter' of our judgements in order to reach this standpoint, but there may be competing descriptions about what constitutes the private 'matter' of judgements. What I consider to be a universal standpoint may, from another's point of view, be a very partial standpoint.

Kant therefore does not appeal to a social process of justification — he does not present the giving of reasons as a social affair. There may, however, be a reason for this. It might be argued that Kant does not present the giving of reasons as a social process because he does not think that *reasons* can be given for aesthetic judgements. But if *reasons* cannot be given for aesthetic judgements it would seem that their claim to normativity cannot be justified. This, it transpires, is Kant's view of the matter. Judgements of taste merely *appear* to be normative: they raise a *claim* to normativity which cannot be justified or 'redeemed'. This is due to the fact that judgements of taste are non-conceptual: they are *solely* expressions of our '*feeling*' (*Gefühl*) of pleasure or displeasure and do not involve concepts.⁴⁵ Cognitive judgements, by contrast, — which include moral and theoretical judgements — *do* involve concepts. These concepts play a crucial justificatory role in theoretical or practical cognition. Thus, to give an example, I justify the claim that it is wrong to lie by appealing to certain concepts (such as the effects consequent upon lying being made a universal law). Concepts, Kant tells us, provide 'proof' (*Beweis*) for judgements. Judgements that do not involve concepts are, Kant tells us, incapable of proof. Consequently, aesthetic judgements — by virtue of their not being cognitive — are incapable of proof.

This feature of aesthetic judgements poses serious problems for their supposed normativity. In §33 Kant tells us that neither a priori nor empirical grounds of proof could *compel* anyone to revise their judgement of taste. No supposed a priori rules of taste can make me change my judgement about a work of art. Giving the example of a poem, Kant claims that:

Certain passages, which are the very ones that displease me, may even agree with rules of beauty (as they have been given [...] and have been recognized): I will stop my ears, listen to no reasons and arguments, and would rather believe that those rules of the critics are false or at least that this is not a case for their application than allow that my judgement be determined by means of a *a priori* grounds of proof, since it is supposed to be a judgement of taste and not of the understanding or reason.⁴⁶

Kant associates the notion of an empirical ground of proof with an appeal to the fact that others generally find something to be beautiful. Kant claims that what the public considers to be beautiful can never dissuade us from our judgement of taste. Testimony may persuade us to revise our epistemic claims, but it can never, Kant

argues, persuade us to revise our aesthetic claims. Only the refinement of our power of judgement through practice will enable us to revise our aesthetic judgements.

We therefore cannot be compelled to adopt or revise aesthetic points of view. No reasons can be given for or against aesthetic judgements, and this calls into question their supposed normativity. Kant himself makes this point when he says that the normative claim these judgements make 'could only be made if it were an objective judgement resting on cognitive grounds and capable of being compelled by means of a proof'.⁴⁷ As no proof can be given, the normative claim these judgements make is empty. It merely has the appearance of normativity.

Nevertheless, there may, Kant suggests, be a way we can influence others to revise their aesthetic judgements. He suggests this when he says that while there can be no 'disputing' (*Disputieren*) about taste, it is certainly right to 'argue' (*Streiten*) about taste. Both disputation and arguing are oriented towards 'mutual agreement' about matters of taste.⁴⁸ 'Disputation' attempts to *decide* about the status of a judgement by means of proofs. 'Arguing' does not appeal to rational grounds, but nevertheless assumes that there is a right or wrong in matters of taste. Kant is not very expansive on the nature of arguing, but it presumably amounts to an attempt to somehow 'stimulate' the other's cognitive powers in the hope that she will experience the requisite feeling.⁴⁹ Such an attempt would perhaps consist in pointing to specific features of the aesthetic object that she may not have noticed. Yet, regardless of how artful this attempt was, the other's assent would only be attained if she experienced the feeling, and this is dependent on the attunement of her cognitive powers. Ultimately, agreement rests upon the notion that the cognitive powers of the disputing parties can be similarly aligned, and this presupposes that the parties possess qualitatively identical cognitive powers. Once again, the possibility of agreement is secured by the assumption that human beings are cognitively isomorphic. In order for this assumption to be justified it would seem that Kant must explain the possibility of our knowledge of other minds. Yet, more importantly, Kant must explain this possibility in order to account for the very aesthetic communication which facilitates agreement. For this communication, like all communication, obviously presupposes the capacity to recognize those with whom we communicate. Kant must therefore provide an account of our knowledge of other rational beings like ourselves. Does the third *Critique* provide this account?

According to Fichte, an attempt to provide this account is to be found in Kant's discussion of reflective judgement. Fichte does not tell us explicitly where this attempt is, but Radrizzani⁵⁰ has argued that it is to be found in §64 of the *Critique of the Teleological Power of Judgement* — 'On the special character of things as natural ends.' There, Kant asks us to imagine a traveller in an uninhabited desert who sees a hexagon traced in the sand. Reflectively, he searches for a universal concept or idea

under which to subsume the particular representation. He finally formulates the hypothesis that no other cause could have produced it but a being like himself. The traveller therefore declares — '*Vestigium hominis video*' (I see it as a trace of a man). Now, two things are worth noting about Kant's discussion. Firstly, it is, as Vieillard-Baron points out, presented as a merely probable hypothesis. The traveller's reflective judgement (which is essentially an abductive inference) lacks any certainty; it expresses a possibility and nothing more.⁵¹ Secondly, it is worth noting the specific nature of the phenomenon the traveller encounters: it is a *geometrical* figure. This choice of example brings to mind Kant's discussion of geometrical construction in the first *Critique*, in which he argues that the geometrical concept is necessarily 'constructed' in intuition (whether pure or empirical).⁵² I can, insofar as I recognize the geometrical figure and am familiar with the process of construction, infer that the figure was caused by a being possessing geometrical concepts and space and time as sensible forms of intuition, viz., a human being. However, and this is a point that is seldom noted, the human being is the human being as a 'theoretical' being. It is *not* the human being as a 'practical' being; a being capable of acting in accordance with the categorical imperative. Kant provides *no account* of how we might cognize the human being as a practical being.

We have therefore seen that intersubjectivity plays a crucial role in Kant's attempts to secure the unity of reason. In the *Idea* essay, an agonistic conception of intersubjectivity served to secure the transition from 'crookedness' to 'rectitude'. In the third *Critique*, this agonistic conception of intersubjectivity was subordinated to a pacific conception of intersubjectivity as aesthetic communication. We have discussed Kant's attempt to provide an account of how we can recognize other beings like ourselves, and have seen that this account only secures the *possibility* of our recognizing them as 'theoretical' beings. Fichte will seek to rectify the deficiencies in Kant's account. He will attempt to provide absolutely certain knowledge of other human beings as *practical* beings. How successful this attempt is will be discussed in the next part of this thesis.

Notes

¹ Cassirer, 1981, Ch. 6. Arendt, 1982. Philonenko, 1999, p. 39.

² Philonenko, 1993, p. 12.

³ C3, p. 176.

⁴ I owe this point to Renaut, 1992, p. 27.

⁵ Renaut, 1986, p. 64.

⁶ PW, p. 41. AK, VIII, p. 17.

⁷ PW, p. 41. AK, VIII, p. 17.

⁸ PW, pp. 45, 46. AK, VIII, p. 22. Translation modified.

⁹ The German *Recht* is not easily translated into English. As Neuhausser points out, it covers all of what we mean by 'right', 'law' and 'justice', and we possess no single discipline which would correspond to the German *Rechtsphilosophie*. Neuhausser in FNR, p. vii. I have translated it as 'right', which is less misleading than law or justice, and preserves the association with rectitude which, as we shall see, is crucial to Kant.

¹⁰ PW, p. 46. AK, VIII, p. 23. Translation modified.

¹¹ PW, p. 42. AK, VIII, p. 18. A similar conception of nature as purposive is advanced in the first supplement of *Toward Perpetual Peace*, Kant, 1996, pp. 331-7.

¹² PW, p. 44. AK, VIII, p. 20.

¹³ PW, p. 44. AK, VIII, p. 21.

¹⁴ PW, p. 44. AK, VIII, p. 21.

¹⁵ PW, p. 45. AK, VIII, p. 22.

¹⁶ Kant suggests, in Proposition VI of the essay, that mankind will never reach a civil society in accordance with right. The reason for this, Kant claims, is that man is irremediably crooked: 'Nothing straight can be constructed from such crooked timber as that which man is made of'.¹⁶ Man therefore needs a master who will bend his will in accordance with right. But such a master can only be a man and will therefore, *ex hypothesi*, be 'crooked' and incapable of justice. Consequently, although mankind's unsocial sociability may trigger a process in which rationality is progressively realized, this progress will never be completed. The idea of a perfectly right society can only serve as a regulative idea, an idea to which human political arrangements must endlessly approximate. Proposition VI therefore stands in stark contrast with the first part of the essay, which presents the process as necessarily terminating in a civil society in accordance with right. The reason for such a contrast, Renaut suggests, is a change in perspective. Having regarded human progress from a 'theoretical' point of view — as a natural process, Kant now regards it from a 'practical' point of view — as a practical task. As a practical task it is an infinite, unending task in which man asymptotically strives to achieve the perfect constitution. Renaut, 1986, pp. 71-76.

¹⁷ PW, p. 46. AK, VIII, p. 22.

¹⁸ Philonenko, 1984, p. 56. Renaut, 1986 p. 66.

¹⁹ Hegel advances this notion in the following passage from *Lectures on the Philosophy of World History*: 'Particular interests contend with one another, and some are destroyed in the process. But it is from this very conflict and destruction of particular things that the universal emerges, and it remains unscathed itself. [...] It is what we call the **ruse of reason** [*List der Vernunft*] that it sets the passions to work in its service, so that the agents by which it gives itself existence must pay the penalty and suffer the loss.' Hegel, 1975, p. 89. Translation modified.

²⁰ Hobbes, *De Cive*, p. 89 in Hobbes, 1978.

²¹ Hobbes, 1996, p. 88.

²² PW, p. 45. AK, VIII, p. 21.

²³ PW, p. 45. AK, VIII, p. 21.

²⁴ G, pp. 418-9.

²⁵ C3, p. 430.

²⁶ C3, p. 431.

²⁷ C3, pp. 431-2.

²⁸ Caygill presents the inequality between classes as the mainspring for the development of culture in general, assuming that the majority represents the culture of skill whilst the minority represents the culture of discipline. In my view, this is incorrect: Kant quite clearly states that it is the culture of skill which is developed by means of social inequality and treats the development of the culture of discipline in a separate paragraph. See Caygill, 1995, pp. 149-150.

²⁹ C3, p. 432.

³⁰ C3, p. 433.

³¹ C3, p. 433.

³² Philonenko, 1999, pp. 38-9.

³³ Philonenko, 1984b, p. 191.

³⁴ Philonenko, 1999, p. 39.

³⁵ Philonenko, 1999, p. 39.

³⁶ Throughout the following I am concerned solely with pure judgements of taste; that is, aesthetic judgements that are completely disinterested. For the sake of brevity, I shall sometimes refer to them as judgements of taste.

³⁷ C3, pp. 213, 237, 239.

³⁸ C3, p. 216.

³⁹ C3, p. 368, footnote 20. § 41.

⁴⁰ C3, §21, pp. 290, 291.

⁴¹ Brandom, 1995.

⁴² C3, p. 294

⁴³ C3, p. 295.

⁴⁴ Although Kant suggests such a process of dialogue in several early letters to Marcus Herz (June 1771), this suggestion hardly constitutes an account.

⁴⁵ C3, p. 216.

⁴⁶ C3, p. 284.

⁴⁷ C3, p. 285.

⁴⁸ C3, p. 338.

⁴⁹ Arendt construes quarrelling as the attempt to *persuade* others to revise their judgement. In quarrelling we do not offer reasons but, having adopted the universal standpoint of the *sensus communis*, attempt to 'court' or 'woo' other's opinions ("The judging person," as Kant says quite beautifully, "can only 'woo the consent of everyone else' in the hope of coming to an agreement with him eventually.") Arendt, 1961, p. 222.

⁵⁰ Radrizzani, 1987, p. 196.

⁵¹ Vieillard-Baron, 1969, p. 118.

⁵² C1, A24/B29, A713/B741 ff.

Part II
FICHTE'S THEORY OF INTERSUBJECTIVITY

Introduction to Part II

In this part of the thesis, I will trace Fichte's account of intersubjectivity from his early lectures at Jena to his *Foundations of Natural Right*. Yet, whilst I shall focus upon Fichte's account of intersubjectivity, I shall not consider it in isolation. Fichte is a systematic thinker and, if we wish to assess the significance of intersubjectivity for his philosophy as a whole, we must consider his account of intersubjectivity in relation to his system of transcendental idealism or '*Wissenschaftslehre*'. It will also be particularly important to consider the relationship of Fichte's account of intersubjectivity to his first presentation of the 'foundations' of this system — the 1794-5 *Foundations of the Entire Wissenschaftslehre*. For this presentation has often been taken to endorse a 'subjective idealism' which is wholly incompatible with a theory of intersubjectivity which regards other agents as something more than a 'product' of an 'absolute I'.

I will begin, in chapter 4, by providing an account of Fichte's notion of philosophy as a '*Wissenschaftslehre*' and then proceed, in chapter 5, to a discussion of *Some Lectures Concerning the Scholar's Vocation*, which contains Fichte's first serious treatment of intersubjectivity. In chapter 6, I shall provide, in opposition to the traditional 'metaphysical' interpretation of the 1794-5 *Foundations of the Entire Wissenschaftslehre*, an interpretation that is compatible with Fichte's concern with intersubjectivity. Such a reading will allow us, in chapter 7, to examine Fichte's theory of natural right which seeks to provide a comprehensive theory of intersubjectivity. Particular emphasis will be placed on Fichte's claim that a relationship of mutual recognition is a condition of the possibility of self-consciousness.

THE CONCEPT OF A *WISSENSCHAFTSLEHRE*

In order to appreciate the role of intersubjectivity within Fichte's transcendental idealism an understanding of Fichte's conception of philosophical inquiry is necessary. Philosophical inquiry must, Fichte claims, constitute a *Wissenschaftslehre* — a 'doctrine' or 'theory' (*Lehre*) of 'science' or 'scientific knowledge' (*Wissenschaft*). Indeed, Fichte even goes so far as to suggest that philosophy should, insofar as it is to be a 'rigorous science', adopt the name *Wissenschaftslehre*.¹

What, then, is a *Wissenschaftslehre*? The most obvious place to look for an answer to this question is the 1794 essay *Concerning the Concept of the Wissenschaftslehre, or, of So-called Philosophy* (hereafter, '*Concerning the Concept*') and the two *Introductions to the Wissenschaftslehre* of 1797. *Concerning the Concept* was written as a prospectus for, and an invitation to, Fichte's 'private' lectures at the University of Jena — the notes to which constitute the 1794-5 *Foundations of the Entire Wissenschaftslehre* (hereafter, '*1794-5 Foundations*'). Fichte was apparently pleased with this essay, and published a second edition in 1798. In the Preface to this edition Fichte claims that *Concerning the Concept* is, along with the two *Introductions*, a work of 'criticism': a work devoted to reflection upon the nature of philosophy. The significance that Fichte attached to the prospectus, and the fact that it provides an excellent prolegomena to the highly abstruse 1794-5 *Foundations*, would seem to make it an ideal starting point for a discussion of the idea of a *Wissenschaftslehre*. In what follows, I shall draw upon all three texts to provide an account of Fichte's philosophical project. Before providing this account, however, a few clarifications will be helpful.

Firstly, the term *Wissenschaftslehre* is a neologism developed by Fichte to describe his systematic transcendental idealism. It may be translated as 'Doctrine' or 'Theory' — *Lehre*, of 'Science' or 'Scientific Knowledge' — *Wissenschaft*. It should *not* be translated as 'Science of Knowledge' (the title of the English translation of the 1794-5 *Foundations*). The German term *Wissenschaft* does not mean 'natural science'. Rather, it means *any* body of rigorous, systematic knowledge, whether scientific or otherwise. Disciplines such as theology, right or aesthetics can all be 'scientific' — *wissenschaftlich* — providing they are unified, systematic bodies of knowledge.²

Secondly, it is crucial to make a distinction between the *Wissenschaftslehre* and its 'foundations' (*Grundlage*).³ The foundational part of the *Wissenschaftslehre* articulates the fundamental principles underlying certain types of knowledge. These principles may serve as the first principles of particular philosophical 'theories' (*Lehren*), which are the sub-divisions of the *Wissenschaftslehre*. These theories are, *Concerning the Concept* tells us, ethics, right, aesthetics, theology, the study of nature and 'so-called common sense or the natural sense of truth'.⁴ Fichte only provided comprehensive treatments of two of these theories — ethics and right, and spent most of his career reworking the *foundations* of his system. In what follows, we will be concerned primarily with Fichte's philosophy of right and with the first, foundational part of the *Wissenschaftslehre* which seeks to provide the fundamental conditions for the special philosophical theories.

Finally, it is important to note that Fichte continually and tirelessly revised his presentation of the foundations of the *Wissenschaftslehre*. The question of the relationship between these different presentations has been a source of considerable controversy. Here I shall be concerned only with the 1794-5 presentation, an extremely difficult and opaque text, which Fichte wrote as lecture notes for his students. My reason for focusing upon this text is that it was produced at the same time as Fichte's first serious discussion of intersubjectivity. It may therefore reflect this discussion and may perhaps even provide the theoretical foundations for it.

With these clarifications in mind, I shall now explain what a *Wissenschaftslehre* is. My explanation will focus upon six closely related themes, which are central to Fichte's conception of a *Wissenschaftslehre*. These themes are: the demand for a rigorous foundational philosophy; the conflict between dogmatism and idealism; the grounds for choosing a philosophy; the political implications of transcendental idealism; the notion of 'pragmatic history' and the need for a philosophical 'justification of *doxa*'.

Philosophy as a 'Rigorous Science'

In his introductions to the first *Critique*, Kant held that a true system of transcendental philosophy should be both rigorous and scientific. But although Kant claimed to have discovered the 'path to science' he did not, by his own admission, provide a truly unified system.⁵ Kant's foremost disciple, K. L. Reinhold, sought to correct this. He claimed that a genuine transcendental philosophy must derive *all* the conditions for the possibility of experience from a single first principle, and attempted to do this in his 'Elementary Philosophy' (*Elementarphilosophie*). There, he claimed to have discovered the 'common root' between sensibility and understanding that Kant postulated but claimed was unknown.⁶ He found this 'root' in the 'principle of consciousness' (*Satz des Bewußtseins*) which states: '*in consciousness, the subject distinguishes the*

representation from the subject and the object and relates it to them both'.⁷ Reinhold claimed that this first principle expressed a 'fact of consciousness', which could be immediately grasped in reflection.⁸ No reasoning was required to demonstrate this fact. Indeed, if *reasons* could be given, the principle of consciousness would *not* be the first principle of philosophy. The fact, and the principle expressing it, both had to be self-evident and self-justifying. Knowledge of this fact had to be immediate and, consequently, non-inferential. The immediate, non-inferential nature of this awareness led to it being described as an 'intuition' (*Anschauung*). Yet this intuition, insofar as it afforded knowledge of consciousness, was not sensible. Reinhold therefore referred to it as an 'intellectual intuition' (*Intellektuelle Anschauung*).⁹

From the principle of consciousness, Reinhold tried to derive the conditions of the possibility of our representation of an objective, publicly accessible world. These conditions were located in the faculty of representation which actively structured experience.

Fichte was greatly impressed by Reinhold's scientific conception of philosophy and wrote a series of 'meditations' upon Reinhold's system.¹⁰ Fichte also provided a sophisticated defence of Reinhold in response to an anonymously published treatise (the author was later discovered to be G. E. Schulze) *Aenesidemus, or concerning the Foundations of the Elementary Philosophy Propounded in Jena by Professor Reinhold, including a defense of Skepticism against the Pretensions of the Critique of Reason*.¹¹ Nevertheless, Fichte's allegiance to Reinhold's conception of transcendental philosophy was not unqualified.

Fichte objected to the 'dogmatic' implications of Reinhold's claim that the first principle expressed a 'fact of consciousness'. The notion that this principle was somehow 'given' lent itself to a dogmatic interpretation, certain writers regarding this 'fact' as an innate mechanism of the mind. Indeed, much of the scepticism of *Aenesidemus* was directed at the peculiar nature of this fact of consciousness. Fichte responded by claiming that Reinhold was wrong to suggest that the first principle was a fact of consciousness. Rather, underlying this 'fact' (*Tatsache*) was a fundamental, spontaneous 'deed-act' (*Tathandlung*) which made it possible.¹² Fichte also objected to Reinhold's emphasis on our theoretical knowledge — our knowledge of an apparently mind-independent world. For whilst Reinhold repeatedly stressed that his Elementary Philosophy would provide a secure foundation for our moral and religious beliefs, he was largely concerned with justifying our 'theoretical' representations.¹³ Fichte expresses his disappointment in a 1793 letter, in which he claims that Reinhold must know 'nothing of freedom and the practical [categorical] imperative'.¹⁴

Despite these objections, however, Fichte remained faithful to Reinhold's ideal of philosophy as a rigorous, foundational science whose task was to derive the

conditions of the possibility of representation from a single first principle. In the first *Introduction* of 1797, Fichte describes the goal of philosophy as follows:

what is the basis of the system of those representations accompanied by a feeling of necessity, and what is the basis of this feeling of necessity itself? This is a question well worth pondering. It is the task of philosophy to answer this question; indeed, to my mind, nothing is philosophy except that science that discharges this task. Another name for the system of representations accompanied by the feeling of necessity is "experience" — whether inner or outer. We could thus express the task of philosophy in different words as follows: Philosophy has to display the basis or foundation of all experience.¹⁵

This is the task of philosophy, and consequently the task of a *Wissenschaftslehre*. It must articulate the conditions of the possibility of the 'system of representations accompanied by the feeling of necessity' or experience.

Now a certain degree of caution is required here. For Fichte, this system of representations is *not* limited to our representations of an apparently mind-independent objective world. If this was all Fichte meant by 'experience', it would be hard to understand how he differed from Reinhold. Indeed, Fichte states that the representations in question are:

not merely our representations of a world in which objects are determined by the subsumptive and reflective power of judgement, but also our representations of ourselves as free, practical beings subject to laws.¹⁶

In other words, philosophy must also articulate the fundamental conditions of our *practical knowledge* — our knowledge of what we *ought* to do. For moral obligation is also accompanied by a 'feeling of necessity'. And it should also, Fichte claims in *Concerning the Concept*, articulate the fundamental principles of aesthetic and theological judgement and 'so-called common sense'.¹⁷

It would therefore be a mistake to think of Fichte as an epistemologist in the narrow sense, i.e. as being concerned with our knowledge of a mind-independent objective world. He is concerned with the conditions for the possibility of diverse kinds of knowledge. Indeed, as we shall shortly see, Fichte is concerned with our most prosaic everyday knowledge.

What, then, are the conditions sought by the foundational part of the *Wissenschaftslehre*? Fichte claims that the foundation for all experience is spontaneous subjectivity, the 'absolute I' or 'pure I' (*das reine Ich*). In the first *Critique* Kant called this the 'transcendental unity of apperception (or self-consciousness)' and claimed that it was the 'supreme' principle in the whole of human cognition'.¹⁸ For Kant, the synthesizing activity of this 'subject' or 'I', which is facilitated by the categories, is a fundamental condition of the possibility of human experience. The synthesizing acts of the I 'constitute' the fundamental structures of experience.

Fichte seizes upon this notion and radically extends it, rejecting Kant's claim that there is a quasi-independent faculty of sensibility. For Fichte, a *Wissenschaftslehre* should seek to derive *all* the conditions of the possibility of *experience* from the spontaneous activity of the pure I alone. It does this by articulating a system of necessary 'acts of the mind', a system of acts that furnish the conditions of the possibility of experience.¹⁹ These acts are constitutive of the entire system of representations accompanied by the feeling of necessity (which is not to say that they somehow 'produce reality'). The *Wissenschaftslehre* deduces these acts as conditions of the possibility of the first primordial act. The first primordial act is the act whereby the I posits itself as self-positing (i.e., actively becomes aware of itself as active). But in order for this to be possible, another act is required — the positing of an object or 'not-I'. This act in turn requires another act as the condition of its possibility, which in turn requires another act, etc. At the end of this procedure, the entire a priori structure of experience has been derived. In the first *Introduction to the Wissenschaftslehre* Fichte describes this procedure as follows:

*It shows that what is postulated as the first principle and immediately established within consciousness is not possible unless something else occurs as well, and that this second thing is not possible apart from the occurrence of some third thing. It continues in this manner until all of the conditions of the first principle have been completely exhausted and its possibility has become completely comprehensible. It proceeds in an interrupted progression from what is conditioned to the condition of the same. Each condition becomes, in turn, something that is itself conditioned and whose condition has to be discovered.*²⁰

This strategy should be familiar: It is precisely the strategy of Kant's 'Transcendental Deduction' in which the categories are deduced as the conditions of the possibility of the synthesizing activity of the transcendental unity of apperception.

Fichte's claim that the first, unconditioned act itself has *conditions* may seem paradoxical. However, this apparent paradox can be resolved as follows. The original act is the fundamental condition of the possibility of all experience. Without its synthesizing activity no experience would be possible. It therefore *necessitates* or *demand*s that other conditions hold. It is, in a fundamental sense, the condition of its conditions: without it, *there would be no conditions*, i.e., no other acts. Moreover, the paradox only really arises if we regard these conditioning acts as discrete activities that are foreign to the first fundamental act. There is, strictly speaking only one act, the act of the pure I, which provides its own conditions. The language of isolated acts is merely an heuristic device for philosophical inquiry, and should not be taken literally.²¹

This is how the foundations of Fichte's system of transcendental idealism, his *Wissenschaftslehre*, seeks to carry out the 'task of philosophy'. It seeks to deduce a 'system of acts' which constitutes the condition of the possibility of experience.

However, Fichte is aware that there might be an alternative approach to this task, an approach that appeals to different conditions of the possibility of experience. Fichte refers to this approach as 'dogmatism'.

Idealism and Dogmatism

According to Fichte, idealism and dogmatism are the *only* philosophical systems possible.²² By 'idealism' Fichte means transcendental idealism and, in particular, his *own* transcendental idealism. Transcendental idealism, at least in Fichte's version of it, appeals to the activity of the 'pure I' or 'I in itself' as the 'explanatory ground' of all experience.²³ Dogmatism, by contrast, appeals to the 'thing in itself' as the explanatory ground of all experience. It seeks to explain both inner and outer experience in terms of the causal efficacy of objects. Fichte claims that these systems are mutually exclusive.²⁴ Any attempt to unite them in a 'hybrid' system is, Fichte opines, an 'inconsistent enterprise'.²⁵

There has been considerable controversy over what Fichte means by 'dogmatism'. Commentators such as J. D. Rabb claim that he means realism.²⁶ But Fichte, as we will see later, does not deny realism absolutely. Wayne Martin has claimed that Fichte is referring to 'naturalism', understood as the attempt to explain experience and self-consciousness as the result of mechanistic causal processes.²⁷ Fichte is certainly opposed to such a mode of explanation, yet the appellation 'naturalism' seems oddly anachronistic. Furthermore, it is hardly plausible to suggest that Berkeley — who Fichte regards as a dogmatist — is an exponent of naturalism, at least as this term is normally understood.²⁸ There is, I would suggest, a simpler answer, an answer which should be familiar to readers of Kant.

The answer is that Fichte is referring to what Kant calls *transcendental realism*, a philosophical approach that attempts to explain representation by appealing to a domain of objects which are constituted independently of us.²⁹ It begins with a mind-independent realm of being, and *then* asks how experience is possible. Having postulated a gap between our representations and objects, it is then faced with the onerous task of bridging this gap. And Fichte, like Kant, claims it cannot do this without being caught up in vicious circularity or entering into an infinite regress.

This interpretation allows us to explain why Fichte classes Berkeley as a dogmatist. For Kant regards Berkeley's empirical idealism as an upshot of an underlying commitment to transcendental realism.³⁰ Fichte can therefore be seen to be adopting Kant's metaphilosophical distinction. Yet he also transforms this distinction in a way Kant did not anticipate.

Dogmatists and Idealists

In the first *Introduction* of 1797 Fichte claims that the two opposing systems are internally consistent and mutually exclusive. It is impossible to refute either from the standpoint of the other, insofar as one would be guilty of *petitio principii*. There is simply no reason why either system should accept criticisms grounded upon principles which it refuses to accept. It is therefore impossible for either system to demonstrate its explanatory superiority over the other. As these are the only two philosophical systems conceivable no *philosophical* justification can be given as to why we should choose one system rather than another. Fichte therefore argues that the grounds for choosing a philosophical system are *extra-philosophical*. One's choice of philosophical system is, Fichte claims, motivated by *inclination* and *interest* — 'The kind of philosophy one chooses depends upon the kind of person one is'.³¹

This is perhaps one of Fichte's most famous, and lapidary, pronouncements. It should, however, be interpreted with caution. For Fichte is *not* claiming that one's choice of philosophy is simply a matter of whim, fancy, or subjective perspective. He is not claiming that philosophy is, in Nietzsche's words, a 'desire of the heart sifted and made abstract'.³² He is *not* advocating relativism or perspectivism. Fichte claims that the interests which motivate our choice of system are sub-species of a fundamental interest: 'One's supreme interest', he asserts, 'and the foundation of all one's other interests is one's *interest in oneself*'.³³

Now there are two fundamental ways in which one can be interested in oneself, ways which determine whether one is a dogmatist or an idealist. A dogmatic character, as Fichte presents him, is a person immersed in a world of objects, a person who is dependent upon things. He defines himself entirely in relation to things and regards his actions as *determined* by the objects around him.³⁴ Such a person, Fichte claims, only has a '*mediated*' relation to himself insofar as his self-awareness is mediated by things. And, given that his whole sense of self depends upon his relation to objects, he is disposed to accept a philosophical system that asserts the primacy of things. A system in which this primacy was denied would offend his very being.

The idealistic character, by contrast, values his freedom and autonomy. He is aware of himself as a potentially free agent, and regards his actions as, in principle, absolutely independent of objects. He is in an '*immediate*' relation to himself. Such a person is inclined towards a system that asserts the primacy of autonomy and freedom.

Fichte regards the dogmatist as situated at a 'lower' level of moral development than the idealist. He often refers to him in pejorative terms, describing him as someone whose character is 'naturally slack'. Nevertheless, Fichte does think that there can be a

transition between these two levels of development: that the dogmatist can become an idealist. Indeed, he asserts that 'One becomes an idealist only by passing through a disposition towards dogmatism—if not by passing through dogmatism itself'.³⁵

We shall see how this transition might be brought about in the following chapters. Here, I simply wish to draw attention to Fichte's notion that our choice of philosophy is motivated by interest and, in particular, that the idealistic character's choice is motivated by an interest in freedom. For this claim reflects a fundamental concern of Fichte's transcendental idealism — a concern with human freedom. This concern is crucial to Fichte's philosophy; it provides the motivation for, and subject matter of, a *Wissenschaftslehre*.

The First Philosophy of Freedom

Fichte's concern with freedom is most famously expressed in a draft of a letter to Jens Baggesen of April or May 1795. There, Fichte expresses dissatisfaction with the 'thoughtlessness and bad manners' of the students of Jena and petitions Baggesen to help secure him a pension from the French government. Fichte claims that the fact that France has undergone a revolution makes it an ideal sponsor, insofar as the 'first principles of his system' are 'incompatible with kings or princes'.³⁶ Fichte writes:

I would accept a pension from the nation of France, which is just beginning to turn its attention towards the arts and sciences. This, I believe, would be appropriate for France. *My system is the first system of freedom.* Just as France has freed man from external shackles, so my system frees him from the fetters of things in themselves, which is to say, from those external influences with which all previous systems—including the Kantian—have more or less fettered man. Indeed, the first principle of my system presents man as an independent being. During the very years when France was using external force to win its political freedom I was engaged in an inner struggle with myself and all deeply rooted prejudices, and this is the struggle which gave birth to my system. Thus the French nation assisted in the creation of my system. Its valor encouraged me and gave me the energy I required for grasping my system. Indeed, it was while I was writing about the French revolution that I was rewarded by the first hints and intimations of this system.³⁷

The last line refers to one of Fichte's earliest writings — the 1793 *Contributions intended to Correct Public Opinion Concerning the French Revolution*. In this work, Fichte attempts to defend the French revolution against the conservative critic Rehberg. Rehberg, who was greatly influenced by Burke, had written a monograph criticizing the revolution — *Investigations on the French Revolution*. Fichte's work is a point by point refutation of Rehberg's monograph. He argues, on the basis of Rousseau's social-contract theory, that the French people had a *right* to change its constitution.³⁸ This argument earned Fichte the reputation of a Jacobin sympathiser, a reputation that is underserved insofar as Fichte's arguments are not as 'revolutionary' as has often been supposed.³⁹

In the *Contributions*, Fichte argues that there is an intimate connection between the 'Copernican Revolution' in philosophy inaugurated by Kant and the revolution inaugurated by the 'nation of France'.⁴⁰ Fichte considers the death of the *Ancien Régime* and the death of transcendent metaphysics to be intimately connected, both giving birth to a new era of humanity. He thinks that Kant's Copernican Revolution, properly understood, should provide the philosophical justification for the revolution in politics.⁴¹ Insofar as Critical idealism stresses the involvement of spontaneity in experience it is potentially a philosophy of freedom. For insofar as it demonstrates that the world of experience is dependent upon our spontaneous cognitive capacities, it suggests that we may *actively transform the world* in accordance with freedom. The world is not an intractable, foreign environment; it is something that is, at least in principle, amenable to our projects. This conception of Critical idealism as a philosophy of freedom lies behind what Renaut has called Fichte's 'practical philosophy of history'.⁴² For Fichte, history is not a blind play of impersonal forces nor a teleological process guided by Providence; it is an expression of human freedom. As Fichte puts it in the Preface to the *Contributions* 'we only ever find in the history of the world what we have first of all put there ourselves'.⁴³ This 'practical' conception of history as the expression of human freedom may be opposed, following Renaut, to a 'theoretical' conception of history. Such a 'theoretical' conception of history is advocated, somewhat paradoxically, by Kant's notion — discussed above — that we should think of history as though it were guided by a 'definite plan' of nature. This conception of history (which is, it must be stressed, a 'regulative' idea) is 'theoretical' insofar as it encourages us to think of the history of the human species as governed by inflexible laws of nature. It is, as Renaut puts it, a 'mechanistic and naturalistic conception of history' which considers man 'solely as a physical force subjected to general laws of the natural universe (attraction, repulsion = "unsocial sociability")'.⁴⁴

If idealism is a philosophy of freedom and autonomy, dogmatism is a philosophy of unfreedom and heteronomy. With its insistence upon a mind-independent reality to which our cognition must conform, it is the philosophical analogue of despotism. For Fichte, dogmatism is a philosophy that *is* compatible with 'kings and princes' insofar as it stresses the permanence of a mind-independent order.⁴⁵

Fichte's realization of the political implications of Kant's Copernican Revolution shows a concern with the relationship between philosophy and life. For Fichte, philosophy should be more than an abstract pursuit divorced from reality. Philosophy must have relevance for everyday life, and the philosopher himself must actively try to transform everyday life in accordance with reason. This emphasis on practical engagement with everyday life is neatly expressed in Fichte's famous avowal that — 'I

do not merely want to think, I want to act'.⁴⁶ And one might suggest that Fichte's conception of philosophy anticipates Karl Marx's infamous 'Thesis XI' which asserts that: 'philosophers have only *interpreted* the world, in various ways; the point is to *change* it'.⁴⁷

But how is the ordinary, non-philosophical person to become aware of this ethical vocation and of the autonomy and freedom which she should strive to achieve? Given Fichte's conviction that 'The majority of men could sooner be brought to believe themselves a piece of lava in the moon than to take themselves for an *I*'⁴⁸, the attainment of such awareness would seem unlikely. Is this awareness merely granted to those philosophers who have grasped the truth of Fichte's transcendental idealism? The answer to these questions is to be found in Fichte's conception of education.

The Idea of a 'Pragmatic History'

Philosophy can only change the world if it can be communicated to others. The transcendental philosopher must therefore be an educator who actively seeks to awaken humanity from its 'dogmatic slumber', and to raise it to an awareness of its spontaneity and freedom. She must seek to educate humanity to the standpoint of idealism. Fichte considers this education to be a crucial task of transcendental philosophy and seeks to discharge this task in two ways. The first way in which Fichte seeks to discharge this task is by writing a 'pragmatic history'. The second way will be touched upon in the next chapter.

In *Concerning the Concept* Fichte, having provided a detailed account of the epistemological task of the *Wissenschaftslehre*, tells us that philosophers must not give laws to the human mind but must rather attempt to describe it, assuming the role of 'writers of pragmatic history'.⁴⁹ Now, this declaration of the philosopher's task is of crucial importance, and is to be understood in relation to Kant. For Kant, the goal of a 'pragmatic history' is the promotion of the happiness and welfare of the human race. It achieves this goal by teaching humanity to avoid misfortune through 'prudence'.⁵⁰ For Fichte, the task of the *Wissenschaftslehre* is 'pragmatic' insofar as it serves an educative function, awakening humanity to its autonomy and spontaneity. He differs from Kant, however, insofar as the ultimate goal of this 'history' is not happiness, but morality — the activity of the agent in accordance with a rational, self-given moral law. As we shall see in Chapter 6, the notion of 'pragmatic history' plays a crucial role in the 1794-5 *Foundations*.

The 'Justification of Doxa'

Fichte's concern with the relationship between philosophy and life and his concern with freedom both motivate one of his most radical transformations of transcendental

philosophy. This transformation is signalled by Fichte's puzzling claim, in *Concerning the Concept*, that a *Wissenschaftslehre* must provide, in addition to theories of morality, right, aesthetics and religion, a theory of 'so-called common sense or the natural sense of truth' (*des sogenannten gemeinen Menschenverstandes, oder des natürlichen Wahrheitssinnes*).⁵¹ The foundations of the *Wissenschaftslehre* must therefore seek to justify our natural common sense view of the world. This clearly amounts to an extension of the justificatory task of transcendental philosophy.

In the first *Critique*, Kant sought to provide an a priori justification of Newtonian science, thereby saving it from Humean scepticism. In the *Groundwork*, Kant sought to provide a justification of our ordinary conception of morality, our 'common rational moral cognition'.⁵² Fichte broadens Kant's justificatory project. He argues that transcendental philosophy must not simply justify our scientific knowledge. Rather, it must justify our *common sense* view of the world. Now, such a view certainly involves belief in the existence of a mind-independent, publicly accessible world. Yet it also involves other beliefs, including the belief that we are *embodied* agents and the belief that there are *other* rational agents like ourselves.

Such a common sense view of the world is the shared background against which we act and interact. Fichte thinks that providing a justification of this common sense view of the world is a crucial task of a philosophy of freedom. 'I consider it philosophy's task', Fichte asserts in the 1797 article *Annals of Philosophical Tone*, 'to provide a derivation of *experience in its entirety* as the necessary condition for self-consciousness'.⁵³ In the *Foundations of Natural Right* of 1796-7, Fichte goes so far as to argue that the philosopher's claim is:

indeterminate and therefore partly incorrect as long as he has not shown how precisely *common sense follows necessarily* only from his claim *and can be explained only if one presupposes that claim*. Philosophy must deduce our belief in the existence of an external world.⁵⁴

Philosophy must therefore provide a 'transcendental deduction' of the common sense view of the world.

Philonenko has called this task the 'justification of *doxa*', insofar as it constitutes an attempt to justify our non-philosophical opinion about the nature of ourselves and the world.⁵⁵ Fichte has a deep respect for common conviction, and wishes to provide philosophical justification for this conviction. Philosophy arises from our everyday, unreflective beliefs and should, Fichte claims, end by vindicating these beliefs.

The motivation for this extension of the justificatory task of transcendental idealism was undoubtedly inspired by F. H. Jacobi. Jacobi was a sworn opponent of

any rationalistic philosophy which sought to explain existence with abstract categories or principles. Such a philosophy, Jacobi argued, sought to reduce the rich and complex nature of reality to a few necessary conceptual determinations. Jacobi was also deeply opposed to Humean scepticism (which he refers to as 'idealism') and drew upon the influence of Reid to develop a form of common-sense direct realism.⁵⁶ Like Reid, Jacobi saw Humean scepticism as dependent upon the Lockean claim that the immediate objects of perception are 'ideas'. Given this claim, it was relatively easy to question the legitimacy of any inference from these representations to a mind-independent reality. Jacobi realized, like Reid, that the way to defeat Humean scepticism was to adopt a form of direct realism in which the senses are in an immediate relation to reality. For Jacobi, as for Reid, our senses play a revelatory function, providing us with non-inferential knowledge about the world. Our senses furnish us with immediate belief, and it is this belief rather than the ratiocination of reason that is the source of genuine knowledge.⁵⁷ Jacobi departed from Reid, however, in the theological significance he assigned to the revelatory function of the senses, which reflected his pietistic commitment to a personal, individual God. He refers to our direct knowledge of the world as *Glaube* — which is both the German word for faith and the German term for Hume's 'belief'.⁵⁸ Jacobi was quick to link the epistemological and theological meanings of the term, claiming that faith (*Glaube*) affords us knowledge of *both* common sense truths and God. In his 1785 work *Concerning the Doctrine of Spinoza in Letters to Herr Moses Mendelssohn*, Jacobi makes the following claim about faith:

Through faith we know that we have a body, and that there are other bodies and thinking beings outside us. A veritable and wondrous revelation! For in fact we only sense our body as constituted in this way or that; but in thus feeling it, we become aware not only of its alterations, but of something else as well, totally different from it, which is neither mere sensation nor thought; we become aware of *other actual things*, and, of that with the very same certainty with which we become aware of ourselves, for without the *Thou*, the *I* is impossible [*denn ohne Du, ist das Ich unmöglich*]. We obtain all representations therefore, *simply through modifications that we acquire*; there is no other way to real cognition, for whenever reason gives birth to *objects*, they are all just chimeras.⁵⁹

Fichte will agree with Jacobi's claim that 'without the *Thou*, the *I* is impossible'. Yet he will reject Jacobi's claim, advanced in the supplement to *David Hume* (entitled *On Transcendental Idealism*), that transcendental idealism necessarily entails 'speculative egoism' (*spekulativen Egoismus*).⁶⁰ He will refute Jacobi by seeking to provide a *transcendental* justification for his 'veritable and wondrous revelation'.

Fichte therefore conceives of the *Wissenschaftslehre* as a thoroughly rigorous system of transcendental philosophy. Yet this system is not an exercise in conceptual gymnastics — it is motivated by profoundly political and ethical

concerns. Fichte's transcendental idealism is suffused with an interest in the promotion and realization of human freedom. This interest is closely related to a pedagogical concern. For Fichte wishes to educate his fellow beings to an awareness of their freedom and spontaneity, and he hopes that those he has educated will, in turn, educate others. This pedagogical concern is therefore intimately related to an interest in communication which is, at bottom, an interest in intersubjectivity. And this latter interest is intimately connected to the question of how we can recognize other rational beings; for it is clearly a condition of the possibility of intersubjectivity that subjects can identify one another as fellow beings.

These concerns with freedom, pedagogy, intersubjectivity and recognition are all explored in Fichte's *Some Lectures Concerning the Scholar's Vocation* of 1794. It is to a discussion of this work that we now turn.

NOTES

- ¹ EPW, p. 106. The notion that philosophy should be a 'rigorous science' (*strenge Wissenschaft*) is usually associated with Husserl. It is of interest to note that this conception of philosophy is to be found in Reinhold's 1790 essay *On the Possibility of Philosophy as a Rigorous Science* (*Über die Möglichkeit der Philosophie als strenge Wissenschaft*). For discussions of the way in which Reinhold's transcendental idealism anticipates Husserlian phenomenology, see Chenet's introduction to Reinhold, 1989 and Beiser, 1987, Chapter 8.
- ² EPW, p. 135.
- ³ Renaut, 1986, p. 31.
- ⁴ EPW, p. 135.
- ⁵ C1, A14/B28.
- ⁶ C1, A15/B29.
- ⁷ Reinhold, 1989, pp. 224-5. Di Giovanni and Harris, 2000, p. 70.
- ⁸ Reinhold, 1989, pp. 224-5.
- ⁹ Tilliette, 1995, pp. 38-52.
- ¹⁰ The *Meditations on Elementary Philosophy* of 1793. A helpful assessment of the role this work played in the development of Fichte's system is provided by Thomas-Fogiel in her introduction to Fichte, 1999.
- ¹¹ A translation of part of this essay is to be found in di Giovanni and Harris, 2000, pp. 104-136.
- ¹² EPW, p. 64.
- ¹³ Reinhold, 1989, pp. 124, 130-131.
- ¹⁴ EPW, p. 371.
- ¹⁵ IWS, p. 8.
- ¹⁶ IWS, p. 31.
- ¹⁷ EPW, p. 135.
- ¹⁸ C1, B135.
- ¹⁹ EPW, p. 126.
- ²⁰ IWS, p. 31. See also the discussion of 'systematic form' in *Concerning the Concept* in EPW, p. 104.
- ²¹ IWS, p. 43.
- ²² IWS, p. 11-12.
- ²³ IWS, p. 13.
- ²⁴ IWS, p. 15.
- ²⁵ IWS, p. 12. See also p. 67.
- ²⁶ Rabb, 1979.
- ²⁷ Martin, 1997, p. 41.
- ²⁸ IWS, p. 23. Martin accommodates the case of Berkeley by claiming that the 'dogmatist's naturalism is less restrictive than the contemporary notion', allowing the appeal to 'supernatural' entities. See Martin, 1997, p. 42, footnote 20.
- ²⁹ For Kant's discussion of the distinction between transcendental realism and transcendental idealism see C1, A367-A378.
- ³⁰ C1, B71.
- ³¹ IWS, p. 20.
- ³² Nietzsche, 1990, p. 36.
- ³³ IWS, p. 18.
- ³⁴ Fichte's description of the dogmatist might seem to anticipate Sartre's account of *mauvais foi*. As we shall see, there are several similarities between Fichte and Sartre.
- ³⁵ IWS, p. 19.
- ³⁶ EPW, p. 385.
- ³⁷ EPW, pp. 385-6. My emphasis.
- ³⁸ A helpful précis of the *Contributions* is provided in Léon, 1954, pp. 165-206.
- ³⁹ According to Druet, the *Contributions*, far from being 'revolutionary', advocate a form of 'absolute individualism' and economic liberalism. Indeed, on Druet's reading, Fichte's early political philosophy seems remarkably close to the libertarianism of Robert Nozick. Druet, 1977, pp. 53-64.
- ⁴⁰ Fichte, 1974, p. 80. Renaut and Sosoe, 1991, pp. 390-4. Philonenko, 1988, pp. 77-8.
- ⁴¹ Bourgeois, 1990, p. 49.
- ⁴² Renaut, 1986, pp. 230, 244, 245.
- ⁴³ Fichte, 1974, p. 79.
- ⁴⁴ Renaut, 1986, p. 67. See also pp. 68, 246.
- ⁴⁵ Fichte's claim is supported by the fact that traditional theories of natural law were frequently justified by appeal to the immutable order of God's universe.
- ⁴⁶ Cited in Druet, 1977, p. 20. See also EPW, p. 184.
- ⁴⁷ Marx, 1975, p. 423.
- ⁴⁸ OCCP, p. 75, footnote 2. SK, p. 162, footnote 2. SW, I, p. 175, footnote *.
- ⁴⁹ EPW, p. 131.
- ⁵⁰ G, p. 417, footnote †.
- ⁵¹ EPW, p. 135.
- ⁵² G, p. 393.
- ⁵³ EPW, p. 347.

⁵⁴ FNR, p. 24. SW, III, p. 24.

⁵⁵ Philonenko, 1999, pp. 54-57.

⁵⁶ See Di Giovanni's *Introduction* to Jacobi, 1994, pp. 28-31. As Manfred Kuehn has argued, Reid and the 'Common Sense' school exerted a tremendous influence upon German thinkers of this period. See Kuehn, 1987.

⁵⁷ As Jacobi puts it in *Concerning the Doctrine of Spinoza*, 'Conviction by proofs is certainty at second hand'. Jacobi, 1994, p. 231.

⁵⁸ In defending his use of the term *Glaube*, Jacobi refers to a review of Reid's *Essays on the Intellectual Powers of Man*. Jacobi, 1994, p. 266.

⁵⁹ Jacobi, 1994, p. 231. Werke, IV, p. 211.

⁶⁰ Jacobi, 1994, p. 338. Werke, II, p. 310.

THE VOCATION OF THE SCHOLAR

In 1794 Fichte accepted the post formerly held by Reinhold at Jena University. As part of his academic duties Fichte had to provide, in addition to his 'private' lectures on the foundations of the *Wissenschaftslehre*, a series of free 'public' lectures. Fichte chose a topic close to his heart — the obligations and duties of the academic. Fichte hoped that his lectures would inspire the students of Jena to direct their academic endeavours towards the moral development of humanity. He also hoped that they would seek further inspiration in his private lectures.

Fichte chose 'Morality for Scholars' as the title of the lecture series. The lectures were, at least initially, a resounding success, and Fichte boasted to his wife that he was more popular than Reinhold had been. Nevertheless, Fichte's success offended his contemporaries. A rumour gradually spread that Fichte was promoting revolutionary, 'Jacobin' views. The rumour alleged that Fichte had claimed that (in the words of C. G. Voigt) 'in ten or twenty years there will be no more kings or princes'.¹ Fichte was worried that the rumour would put him out of favour with the Court at Weimar. Despite assurances to the contrary from Goethe and Voigt, he decided to publish the relevant lecture notes *verbatim*. These notes, which consisted of the first five lectures delivered by Fichte, were published under the title *Some Lectures Concerning the Scholar's Vocation* (hereafter, the *Lectures*).

The *Lectures* contain Fichte's first extensive discussion of intersubjectivity. For it is in these lectures that Fichte explicitly addresses the challenge set by Jacobi — the challenge of demonstrating that transcendental idealism does not entail 'speculative egoism'. In the course of this demonstration, Fichte first employs the verb *anerkennen* to refer to the act whereby we identify other rational beings like ourselves. Given the significance of these lectures for the development of Fichte's conception of intersubjectivity, they merit detailed and extensive discussion.

'Popular Philosophy'

Due to their exoteric nature, the *Lectures* are considered to be part of Fichte's so-called 'popular philosophy'. As such, it is tempting to dismiss them as being of little real philosophical significance. However, Fichte's 'popular' writings play a distinctive role

within his philosophical project. A brief discussion of this role will help us to understand the *Lectures*.

The popular works constitute almost all of the work that Fichte published during his lifetime. This is perhaps due to the fact that the poor reception of the 1794-5 *Foundations* discouraged Fichte from publishing his abstruse theoretical texts. Yet there may perhaps be a *philosophical* reason for Fichte's decision to publish only 'popular' texts. For as J. Ch. Goddard has rightly pointed out, these works are the 'very goal of speculative activity':

The Fichtean works of popular philosophy, the exoteric texts, are in no way propaedeutic works, intended to provide the uninitiated with a distant foretaste of the bliss which the esoteric knowledge of the philosopher promises: they are the very goal of speculative activity, the end toward which it aims and in which its whole *raison d'être* is exhausted; it is the only thought that deserves to be published because in it thought is made public, that is to say active.²

The popular writings should therefore be regarded as the *consequence* of a philosophy of freedom rather than as a propaedeutic to the same. For it is these works that seek to transmit the philosophy of freedom to a wide audience and to elicit an awareness of freedom in this audience. Fichte's popular writings therefore reflect his pedagogical concern and complement the *Wissenschaftslehre* as 'pragmatic history'. In his popular writings Fichte attempts to make his philosophy readily accessible and widely comprehensible to the literary public. Yet this task is not to be discharged by vulgarizing the *Wissenschaftslehre*, by presenting it as a 'ready-reckoner' for practical deliberation. Fichte seeks, rather, to *condense* and *distil* the essentials of the *Wissenschaftslehre*, to communicate it intelligibly, whilst preserving its philosophical integrity. He seeks to present the 'spirit' of the *Wissenschaftslehre* through the popular 'letter'.

It would therefore be a mistake to regard the *Lectures* as a simplification of Fichte's philosophy, or as a compendium of rules for proper scholarly conduct. Both conceptions are bluntly dismissed by Fichte. Reading these lectures, he tells us, requires independent thought; a capacity to reason with the text.³ The reader must be able to grasp the ideals that are propounded in the text and be prepared to shape and modify reality in accordance with these ideals. The reader must, in other words, be prepared to *act* in accordance with the ideals presented in the *Lectures*.

The Title

The first difficulty facing the Anglophone reader of the *Lectures* is its title.⁴ The German term *Gelehrter* is standardly translated as 'scholar'. But this rendering is misleading insofar as it suggests a pedantic obsession with a particular topic or discipline. For the Fichtean *Gelehrter* is someone who devotes his or her *entire life* to the acquisition and

transmission of knowledge, in the hope that it will benefit humanity. Breazeale suggests 'educated person' or 'academic' as alternatives.⁵

The German term *Bestimmung* has two distinct meanings. *Bestimmung* can be translated as 'vocation'. Kant uses the term in the first and third *Critiques* to designate the ultimate goal of humanity.⁶ Yet *Bestimmung* also means 'determination' in the sense of the specific or defining characteristic of something. This defining characteristic could also be understood as that which gives meaning to what it characterizes. This leads Breazeale to suggest an alternative rendering of Fichte's title — "Some Lectures on What It Means to Be an Academic".⁷ In what follows this suggestion should be borne in mind.

The Plan of the Lectures

Fichte opens the lectures with the following questions:

What is the scholar's vocation? What is his relation to mankind as a whole, as well as to the individual classes of men? What are his surest means of fulfilling his lofty vocation?⁸

In order to answer the question concerning the vocation of the scholar certain other questions must be answered. Fichte claims that the scholar is a scholar 'only insofar as he is distinguished from other men who are not scholars'. In other words, the scholar is defined in relation to society and his vocation is a social vocation. In order to grasp the specific nature of the scholar's vocation we must, Fichte claims, answer another question: 'What is the vocation of man within society?'⁹ But this question presupposes another, more fundamental question, the question concerning the vocation of man 'as such' or 'in itself' (*an sich*) — the 'vocation of man simply qua man'. Given that this question is presupposed by the other two, Fichte will address it first. He will devote the second lecture to a discussion of the vocation of man within society. Having established the nature of this vocation Fichte will turn, in the third lecture, to a discussion of the scholar's position within society. It is only in the fourth lecture that Fichte will address the official topic of the lectures — the vocation of the scholar. In the fifth, and final, lecture Fichte will attempt to vindicate his conviction that the 'sciences' were not invented 'as an idle mental occupation to meet the demand for a refined type of luxury'.¹⁰ This attempt is made by way of a critique of a view that was commonly — although perhaps erroneously — associated with Rousseau's first *Discourse*: the view that the growth of the arts and sciences has had pernicious effects on humanity's moral development.

In what follows I shall follow the course of Fichte's first four lectures. My discussion will focus mainly upon Fichte's account of intersubjectivity.

The Vocation of Man as such (*an sich*)

Fichte opens the first lecture with a brief discussion of the nature of his topic — the vocation of man as such. A full and comprehensive answer to the question concerning the vocation of man as such presupposes, Fichte claims, 'philosophy in its entirety— and moreover a well-grounded and exhaustive philosophy'.¹¹ The 'last' task of philosophy is to answer the question 'What is the vocation of the scholar?'; the 'first'— and most important — task of philosophy is to answer the question 'What is the vocation of man as such?'.¹² Fichte tells his audience that he can only give a hint as to the answer to the latter question, but assures them that he will provide the answer in his 'private lectures'.¹³ This remark is significant insofar as it tells us that the 1794-5 *Foundations* — which is based upon the notes to these private lectures — is concerned with the vocation of man as such.

What is the question 'What is the vocation of man as such?' a question about? What is the object of this question? It is, Fichte claims, 'man isolated and considered apart from all the associations which are not necessarily included in the concept of man'.¹⁴ Considering man 'apart from all the associations which are not necessarily included in the concept of man' involves considering man in isolation from 'all relationship to rational beings like himself'.¹⁵ Now, this should not be taken as a claim that man is 'essentially' an *asocial* being. Fichte merely thinks that one can ask meaningful questions about the nature of man in abstraction from his social relationships. He asserts that we do not actually exist alone and (in a footnote to the Danish edition of 1796) that a 'real person, a person taken along with all of his specific characteristics' is necessarily a social being or (using a term that will be explained in chapter 7) an 'individual' (*Individuum*).¹⁶

Fichte insists that considering man 'as such' does *not* involve considering him as a disembodied *res cogitans*. Fichte stresses that man 'as such' is *not* equivalent to the pure I. It is impossible, Fichte asserts, to ascertain what the pure I is like independently of 'any relation to anything outside of itself'.¹⁷ The I can only be understood and attain self-consciousness insofar as it is 'empirically determined' — which amounts to the claim that an object or 'not-I' is required as a condition of the possibility of self-consciousness. Now this not-I, Fichte claims, can be a 'body':

Even a person's body (which he calls "his" body) is something apart from the I. Yet apart from this connection with a body he would not be a person at all, but would be something quite inconceivable (if one can still refer to a thing which is not even conceivable as "something").¹⁸

Man 'as such' is therefore the human being as an embodied agent, considered in isolation from other beings like itself. To discover the vocation of man as such, Fichte proposes to provide a detailed analysis of the concept of man as such.

Fichte's analysis begins with the notion of the pure I. He informs his audience that he cannot begin with the proposition 'I am', but will begin with an 'hypothetical proposition' which will be strictly demonstrated in his 'private lectures'.¹⁹ The hypothetical proposition is introduced and elaborated upon in the following paragraph:

Just as certainly as man is rational, he is his own end [*seine eigener Zweck*], that is, he does not exist because something else should exist. Rather, he exists simply because *he* should exist. His mere existence is the ultimate purpose [*letzter Zweck*] of his existence, or (which amounts to the same thing) it is contradictory to inquire concerning the purpose of man's existence: he is *because* he is. This quality of absolute being [*absolutes Sein*], of being for his own sake, is the characteristic feature, the determination or vocation of man, insofar as he is considered merely and solely as a rational being.²⁰

Several things are worth noting about Fichte's definition of man considered as a rational being. Firstly, Fichte is clearly drawing upon Kant's claim, articulated in the *Groundwork*, that our 'humanity' — our capacity to freely set ends — possesses 'unconditional value' or is an 'end in itself'. Fichte interprets Kant to be claiming that man *qua* rational being exists for his 'own sake', not for the sake of anything else. He can never be a mere means to an 'end'. His existence is, so to speak, 'self-justifying'.

Secondly, Fichte presents the 'hypothetical proposition' as an alternative to the proposition 'I am' which is closely associated with the first fundamental proposition of the 1794-5 *Foundations*.²¹ Fichte claims that this hypothetical proposition is 'indelibly etched in human feeling [*Menschengefühl*]'. This appeal to feeling — *Gefühl* — is significant insofar as Fichte seems to be suggesting that we have a direct awareness of ourselves as spontaneous agents. As we will see in the next chapter, this direct non-conceptual awareness of our spontaneity is what Fichte refers to as 'intellectual intuition' (*Intellektuelle Anschauung*).

Thirdly, and finally, Fichte seems to be suggesting that the 'hypothetical proposition', which amounts to a restatement of Kant's claim that humanity is an end in itself, is a 'schematized' version of the fundamental proposition of the 1794-5 *Foundations*. He seems to be saying, in other words, that the proposition is the intuitive presentation of the abstruse first principle of the 1794-5 *Foundations*.

The defining characteristic of man *qua* rational being is therefore his existence as an end in itself — he exists for no other reason than that he should exist. His defining characteristic is 'absolute being'. Yet absolute being is not, Fichte points out, all that pertains to man — 'It is not simply that *he is*; *he also is something* [*etwas*]. He does not say merely "I am"; he adds, "I am this or that".²² What Fichte means by this is that every human being possesses, in addition to the bare fact of her existence, other

defining characteristics. She is not simply a human, but a student, a teacher, a citizen, etc. She is weak or strong, handsome or ugly, etc. She is intelligent or slow-witted, amusing or dull, etc. Now these particular characteristics pertain to her by virtue of the fact that '*something else exists in addition to oneself* (*etwas ausser ihm ist*).²³ This something is associated with the not-I, which is opposed to the I. This not-I is characterized by 'multiplicity' or 'diversity' and corresponds, Fichte tells us in the third lecture, to what Kant calls 'nature'.²⁴ This not-I exerts an influence upon us; it affects our 'passive faculty' which Fichte, following Kant, calls 'sensibility' (*Sinnlichkeit*). And it is this influence which determines the specific characteristics we possess. Man is therefore the particular '*something*' he is by virtue of the fact that he is a 'sensuous being' (*sinnliches Wesen*).²⁵ He is determined by what we might call his environment (both natural and social) or, to use Sartre's term, his 'facticity'.

We are therefore sensible beings who are determined by our environment. Yet we are also rational beings who are capable of *self*-determination. Man's reason should not, Fichte asserts, 'be cancelled by his sensibility'. Rather, man's reason and sensibility should co-exist. This leads Fichte to transform the proposition 'man is simply because he is' into the proposition '*man ought to be what he is simply because he is*'. In other words, man's sensibility should be in accordance with his reason, and he should be responsible for the '*something*' he is. The fact that I am the type of person I am should be due to my freely and rationally choosing to be the person I am, not due to the dictates of circumstance. Or, as Fichte puts it:

all that a person is ought to be related to his pure I, his mere being as an I. He ought to be all that he is simply because he is an I, and what he cannot be because he is an I, he ought not to be at all.²⁶

But what, precisely, is the pure I to which we should conform? Fichte tells us that 'the pure I can be represented only negatively [*nur negativ vorstellen*], as the opposite of the not-I'.²⁷ As the defining characteristic of the latter is 'multiplicity' we may infer that the defining characteristic of the former is 'complete and absolute unity'.²⁸

Now, as Vieillard-Baron has argued, it is crucial to distinguish between the *form* of the pure I and the pure I itself (or, the 'content' of the pure I).²⁹ The content of the pure I is uncognizable — it can only be represented negatively. It is the *total* agreement of man with himself and with his fellow men. This total agreement or 'harmony' — the German term is *Übereinstimmung* — is a regulative idea. It is the unattainable goal towards which man must endlessly strive. The *form* of the pure I, on the other hand, is cognizable. Fichte provides at least two criteria with which to identify the form of the pure I. He tells us that the form of the pure I is revealed in the partial agreement of a subject with himself — 'any determination which can be conceived to endure forever is

in accordance with the pure form of the I'.³⁰ The idea here seems to be that any characteristic of a subject which could, in principle, hold universally and eternally is in conformity with the form of the pure I. If the subject could, *per impossibile*, actually attain this universal and eternal identity he or she would really *be* the pure I. The second criterion is introduced when Fichte tells us that it is 'in the conceivability of identity [that] we *cognize* the expression of the pure form of the I'.³¹ What Fichte means by 'conceivability of identity' (*der Denkbarkeit der Identität*) is far from clear. He may mean logical identity — which would explain why, in the opening section of the 1794-5 *Foundations*, he emphasises the formula 'A=A'. Yet he might also mean *personal* identity — our awareness of a numerically identical persisting subject of experience.³² Vieillard-Baron considers the latter reading to be preferable, insofar as it allows one to understand the formula — used in both the *Lectures* and the 1794-5 *Foundations* — 'I am because I am'.³³

The characteristic feature of the pure I itself is therefore 'complete and absolute unity' — the total agreement of the human being with himself and his fellows. The pure I cannot 'contradict' itself as it contains no diversity. The empirical I, however, is determined by the not-I, the defining characteristic of which is multiplicity. Insofar as it is determined by the not-I, the empirical I *can* contradict itself. If such contradiction occurs, the empirical I is not in conformity with the form of the pure I. But the empirical I *should* be in conformity with the form of the pure I. It *should* be determined by itself rather than by 'something foreign' (*etwas fremdes*). The empirical I *should* be determined 'in a manner in which it could be eternally determined' and this leads Fichte to a striking reformulation of Kant's Formula of Universal Law: 'Act so that you could consider the maxims of your willing to be eternal laws for yourself'.³⁴

Yet Fichte is not merely concerned with the consistency of our moral lives. He demands that *all* of our capacities be consistent, both internally and externally. All of our capacities should be 'internally' consistent — there should be no contradiction between the judgements 'within', or pertaining to, each capacity. And all of our capacities should be 'externally' consistent — the different capacities and their corresponding judgements should not contradict one other. As Fichte puts it:

It is not simply that the will ought always be one with itself (although this is all that moral theory is concerned with), but rather that all of man's powers, which in themselves constitute but one power and are distinguished from each other merely in their application to different objects, should coincide in a complete identity and harmonize with one another'.³⁵

This demand certainly exceeds any made by Kant. But how can we possibly fulfil it? Given the fact that we are, *qua* empirical subjects, partly determined by 'something foreign' it would seem that any attempt to fulfil this demand is impossible. For 'feeling,

as well as representation (which presupposes feeling)' is determined by an alien not-I.³⁶ Our dependence upon an alien not-I means that we are subject to diverse and potentially conflicting inclinations. And whilst we may manage to master or eradicate these inclinations, they will still continue to arise. How, then, can we ever hope to achieve harmony between our empirical I and the form of the pure I?

Fichte's answer to this question rests upon his claim — discussed in the previous chapter — that Kant's Copernican Revolution has practical implications. As we noted, Fichte thinks that the transcendental idealist claim that we are somehow 'responsible' for the fundamental features of the experiential world means that this world is, in principle, amenable to our projects. Fichte assumes that we can, having 'constituted' the world, 'reconstitute' it. This assumption leads Fichte to claim that we can attempt to satisfy the demand for harmony by transforming the world, by rebuilding it in accordance with reason:

Man must try to modify these things. He must attempt to bring them into harmony with the pure form of the I, in order that the representation of these things, to the extent that this depends upon the properties of the things, may harmonize with the form of the pure I.³⁷

The only way to ensure the harmony between our empirical selves and the form of our pure I, is to transform the very world upon which our empirical I depends. Fichte claims that it is only through such transformation that we can hope to achieve:

man's ultimate and supreme goal [...] complete harmony with himself and—so that he can be in harmony with himself—the harmony of all external things with his own necessary, practical concepts of them (i.e., with those concepts which determine how things ought to be).³⁸

Now, although the will is certainly a necessary condition of this transformation, it is not a sufficient condition. We also require a technical capacity to transform the world — 'that skill which we acquire and sharpen through practice'.³⁹ Fichte calls the acquisition of this skill, as well as the degree of skill acquired, 'culture' (*Kultur*). Here the influence of Kant is evident, Fichte drawing upon Kant's discussion of culture in §83 of the *Critique of the Power of Judgement*. Fichte claims that the skill acquired through culture is twofold. It is partly the skill to master and eradicate our inclinations, a skill which corresponds to Kant's 'culture of training (discipline)'. Yet it is also the skill to 'modify and alter' external objects in accordance with our concepts of how they should be, a skill which corresponds to Kant's 'culture of skill'. The skill to master our inclinations refines and develops the way in which we are affected by objects, whilst the skill to modify alters the nature of the objects which affect us. This twofold skill

cultivates our sensibility so that we may bring our empirical I into conformity with the form of the pure I.

Culture therefore serves as a means to our final end — complete harmony (*Übereinstimmung*) with ourselves and each other. Yet whilst we may progress towards this harmony, we can *never* hope to attain it. The absolute harmony in question — the pure I itself — is a merely regulative idea, an idea towards which we must strive without ever being able to realize it. Nevertheless, as finite rational beings we are obliged to follow an asymptotic path towards this goal. Indeed, it is this endless striving which is our vocation. Man's vocation 'qua man' lies in 'endless approximation [*unendliche Annäherung*] toward this goal'.⁴⁰ And insofar as this goal might be described as 'perfection', man's vocation is to 'perfect himself without end'. This is Fichte's infamous doctrine of 'striving' (*Streben*) which receives its canonical formulation in the 1794-5 *Foundations*.

Fichte's claim that the vocation of man 'as such' consists in an endless process of self-perfection might seem rather bleak. It might seem that such a process of striving for an unattainable goal is both pointless and unfulfilling. Hegel was quick to criticize Fichte's notion of 'endless approximation' for precisely this reason. Fichte's notion of infinity as an endless and interminable series was, Hegel claimed, a 'bad' conception of infinity, a 'wearisome repetition which makes a limit vanish, reappear and then vanish again'.⁴¹ A 'good' conception of infinity would regard the infinite as circular in structure. Once humanity (which is an expression of *Geist*) has attained 'absolute knowing' it has reached the endpoint of its development. In reaching this point humanity returns to the point from which it started which is now, by virtue of the laborious developmental process humanity has undergone, the highest cognitive standpoint possible. With this, the circle of development is closed. As no further development can occur, history — understood as a process of cumulative development — has ended. All that humanity can do is to endlessly re-travel the circle. This re-travelling is not an endless, unsatisfactory striving, but a deepening of humanity's understanding of the 'Absolute'.

Hegel therefore regards the development of humanity as reaching an end — as attaining a satisfactory conclusion. And he thinks that this is eminently more desirable than Fichte's conception of the vocation of man as an infinite striving. Yet it is far from clear that Hegel's conception of the end of history *is* desirable. There is no reason to think that the Hegelian end of history would be a state of satisfaction and plenitude. Indeed, as Feuerbach remarked, a world in which nothing fundamentally new could occur would be little more than an arid 'desert'.⁴²

Fichte's vision of man's vocation as an endless striving for total harmony — *Übereinstimmung* — stems from the recognition that the demands of morality can never be fully satisfied. There are always problems to be resolved and there can never

be a point at which obligation ceases. We can, of course, make progress: we can ensure that the rights of agents are respected and protected, we can ensure equality of opportunity. But ensuring that such rights are *universally* respected seems, *prima facie*, an infinite task. Furthermore, *new* ethical dilemmas are constantly emerging: how, for example, should we respond to ethical issues raised by advances in genetics? Fichte thinks that we can never simply *stop* improving morally. To claim otherwise would be mere hubris.

Fichte's conception of man's vocation is closely related to his 'practical' conception of history. Insofar as human freedom is potentially infinite and inexhaustible, history is an 'open', infinite process. It should not be conceived as a teleological process governed by 'nature's plan' (Kant) or 'the ruse of reason' (Hegel). Such a 'closed' conception of history reduces humanity to the 'vehicle', to borrow Taylor's phrase⁴³, of a supra-individual agency such as *Geist* (Hegel) or Providence (Kant). In such conceptions of history, humanity is advanced by an essentially *heteronomous* process which takes place 'behind the back' of human agents. It is but a short step from this view to Hegel's notorious claim that history is an 'altar' upon which individuals are sacrificed for the sake of reason.⁴⁴ In Fichte's *practical* conception of history the only *teloi* or goals are those which are freely willed by human beings. The development of human history is, to be sure, governed by reason, but it is a reason which is discovered and developed by human agents themselves.

The Vocation of Man in Society

Fichte opens his second lecture with the claim that there are several questions philosophy must answer if it is to become a 'science and a *Wissenschaftslehre*'. Fichte tells us that two of these questions are of special significance:

Among the questions which philosophy has to answer we find the following two in particular, which have to be answered before, among other things, a well-founded theory of natural rights is possible. First of all, by what right does a man call a particular portion of the physical world "*his* body"? How does he come to consider this to be his body, something which belongs to his I, since it is nevertheless something completely opposed to his I? And then the second question: how does a man come to assume [*anzunehmen*] that there are rational beings like himself apart from him? And how does he come to recognize [*anzuerkennen*] them, since they are certainly not immediately present to his pure self-consciousness?⁴⁵

These two questions correspond to Jacobi's 'veritable and wondrous' revelation; the revelation that we possess a body and that there are other beings like ourselves. Fichte will answer the first question, the question concerning our justification for considering ourselves to be embodied, at a later date (in the 1796-7 *Foundations of Natural Right*). Here, he will focus upon the second question, which contains two parts:

one concerning our assumption that there are other rational beings like ourselves, and one concerning how we come to 'recognize' (*anzuerkennen*) these beings.

An answer to this question is crucial for the development of a *Wissenschaftslehre*, and in, particular, its theory of right. Yet it is also crucial for an account of the vocation of man within society. For Fichte defines 'society' (*Gesellschaft*) as 'the relationship in which rational beings stand to each other', a definition which clearly presupposes that there are other rational beings and that we can recognize them.⁴⁶

Fichte claims that an answer to the second part of the question — the part concerning our recognition of other rational beings — would amount to the discovery of 'some characteristic features' (*charakteristische Merkmale*) which enable us to 'distinguish these beings from those who are not rational and thus are not members of society'.⁴⁷

In the first part of this study I claimed that Kant's definition of rational beings was so vague that its reference was indeterminate — there simply were *no* informative criteria with which to identify rational beings and to distinguish them from other beings. Here Fichte will attempt to provide such informative criteria. His attempt to do this will lead him to reject Kant's strict separation of phenomena and noumena. For it is precisely this separation that prohibited Kant from providing informative criteria: if our intelligible, rational natures are radically separate from our phenomenal being and we can only have knowledge of phenomena, then there can be no cognitively available criteria which would allow us to pick out other rational beings.

Fichte's use of the verb '*anerkennen*' to formulate the question concerning our capacity to recognize other rational beings is of considerable importance. For it marks Fichte's first use of the terminology which will be central to his account of intersubjectivity — the terminology of 'recognition' (*Anerkennung*). Now, in English there are two distinct senses of the verb 'recognize'. The first sense might be called a 'cognitive' sense. To recognize something in this sense is to be able to pick it out and identify it as something of a certain kind; it is to recognize something as something, e.g., to recognize the object on the horizon as a tree. This cognitive sense presupposes the possession of criteria with which to identify the object in question as being an object of a certain kind. The second sense of the verb might be called an 'honorific' sense. To recognize something in this sense is to acknowledge, respect or honour someone or something for possessing certain characteristics, e.g., to respect someone's capacity for autonomy.⁴⁸ This 'honorific' sense of recognize is the primary meaning of the German verb *anerkennen*. The activity of cognitively recognizing something (or, more simply, cognizing something) is referred to as *erkennen*. Honorific recognition clearly presupposes cognitive recognition; for I can respect something for

possessing certain characteristics only if I know what characteristics it possesses. Now I maintain, *pace* Inwood⁴⁹, that Fichte *is* concerned with cognitive recognition despite his use of the verb *anerkennen*. After all, the concern to discover informative criteria with which to pick out and identify rational beings is an epistemological concern. What Fichte is pointing to in his use of the verb *anerkennen* is, I would suggest, that the characteristics which allow us to pick out and cognitively recognize rational beings are characteristics which, if properly grasped, demand honorific recognition (we might refer to them as 'honorific' characteristics).⁵⁰ Such characteristics include autonomy and rationality. If one is a genuinely rational being one cannot, Fichte seems to be saying, cognize another rational being without also respecting her.

Fichte takes it for granted that *only* rational beings can be recognized honorifically. To 'honorifically' recognize an animal or a natural object would be wholly inappropriate. Only rational beings can command respect, as they are the only beings which are ends in themselves. One origin of this honorific sense of recognition is to be found in the notion that human beings have a desire to be recognized or honoured by other human beings. As noted in chapter 3, this notion is to be found in Kant's notion of '*Ehrsucht*', Rousseau's notion of '*amour propre*' and Hobbes' notion of 'Glory'.

How, then, does Fichte answer the questions concerning the origin of the assumption that there *are* other rational beings and the nature of the criteria which allow us to recognize such beings? Before providing his answer, Fichte dismisses a possible approach to determining the answer. 'Persons still unaccustomed to strict philosophical inquiry', Fichte claims, might answer as follows:

"Our knowledge that rational beings like ourselves exist apart from us, and our knowledge of the signs which distinguish rational beings from nonrational ones have both been derived from experience."⁵¹

Fichte considers this answer to be 'superficial and unsatisfying'. According to Fichte, any appeal to the testimony of the senses does not demonstrate that there *actually are* other rational beings like ourselves and, consequently, doesn't prove that we are justified in our assumption.

All that experience teaches us is that our consciousness contains *the representation* of rational beings outside of ourselves. No one disputes this and no egoist [*Egoist*] has ever denied it. What is in question is whether there is anything *beyond this representation* which corresponds to it, that is, whether rational beings exist independently of our representations of them and would exist even if we had no such representations.⁵²

It is possible to see Fichte's comments as constituting a *tu quoque* response to Jacobi's claim that transcendental idealism entails 'speculative egoism'. On this reading, Fichte would be implying that Jacobi is unjustified in appealing to the testimony of the senses as proof of the existence of other rational beings. Jacobi may

stress the immediacy and apparent necessity of our awareness of other rational beings — but these characteristics may simply be features of our representations. The bare fact that our representations of rational beings possess these properties does not justify the inference to the mind-independent existence of such beings. As Fichte points out, even the 'egoist' accepts the necessity of our representations of other rational beings. If Jacobi cannot justify the inference from representation to existence he is condemned to egoism. Now Jacobi might reply that he does not accept that we are constrained by 'representations' and that the senses put us in direct contact with reality. Yet unless Jacobi can provide support for his direct realism other than the necessity and vivacity of certain experiences, this response is unsatisfactory. It seems clear that Jacobi is intended as one of those philosophers who is unaccustomed to 'strict philosophical inquiry'.

Having shown that Jacobi is himself open to the charge of egoism, Fichte now turns to consider whether transcendental idealism can resist this charge. Fichte presents Kant's position as follows:

The most that experience can teach us is that there are effects which resemble the effects of rational causes. It cannot, however, teach us that the causes in question actually exist as rational beings in themselves. For a being in itself is no object of experience.⁵³

As Fichte presents it, Kant's position is premised on a strict distinction between phenomena and noumena — between 'objects of experience' and 'beings in themselves'. Given this distinction we can never know whether rational beings exist independently of our representations. Yet, according to Fichte, Kant thinks that he can provide an account of the origin of our assumption that other rational beings exist and of the characteristics enabling us to recognize them. This account runs as follows:

We ourselves introduce such beings into experience. It is we who explain certain experiences by appealing to the existence of rational beings outside of ourselves.⁵⁴

The phrase 'we ourselves introduce such beings into experience' is reminiscent of Kant's claim, in the Paralogisms, that the objects I apprehend as other rational beings are 'nothing further' than the 'transference' (*Übertragung*) of my self-consciousness onto 'other things'.⁵⁵ It also evokes Kant's discussion, in §64 of the *Critique of the Power of Judgement*, of the hexagon traced in the sand. There, the traveller used reflective judgement to explain the phenomenon as the product of a rational being.

Fichte considers Kant's answer to be unsatisfactory. For whilst Kant may be correct in claiming that we *do* explain certain experiences by appealing to the existence

of rational beings like ourselves, the bare *fact* that we engage in such an explanatory practice does not show that we are *justified* in doing so. Fichte asks:

But with what right [*mit welcher Befugniß*] do we offer this explanation? The *justification* [*Befugniß*] needs to be better demonstrated before we can use this explanation, for its validity depends upon such a justification and cannot be based simply upon the fact that we actually make use of such explanations.⁵⁶

Fichte is levelling a very serious accusation at Kant: he is claiming that Kant has failed to answer the *quid juris* concerning our assumption that rational beings exist. He is, in other words, accusing Kant of being *uncritical* with respect to our knowledge of beings like ourselves. Fichte will seek to provide a *critical* account of this knowledge and thereby save Critical idealism from the charge of 'egoism'.

Fichte opens his account by claiming that, since Critical philosophers have exhausted the domain of theoretical philosophy, his answer will rely upon practical principles. Fichte answers the first part of the question — the part concerning our assumption that there are other rational beings — by drawing upon his account of the vocation of man as such. This account has shown, Fichte claims, that man's highest and fundamental drive is the drive towards complete self-harmony and, in order to attain such harmony, toward the harmony of all external, foreign things with his practical concepts of them. Now, amongst these concepts man possesses the concepts of 'reason and of rational action and thought'.⁵⁷ Given man's fundamental drive towards harmony, it becomes a *practical* necessity that something corresponds to these concepts — 'One of the things that man requires is that rational beings like himself should exist outside of him'.⁵⁸ This requirement constitutes one of man's fundamental drives — the 'social drive' (*gesellschaftliche Trieb*).⁵⁹ Fichte's derivation of this drive provides an answer to the first part of the question, viz., how we arrive at the presupposition that there actually are other rational beings like ourselves.

Fichte's answer to the second part of the question — the part concerning the 'characteristic features' which enable us to recognize rational beings — is more complex. Although Fichte does not say so explicitly, he clearly takes as his starting point §64 of the *Critique of the Power of Judgement*. There, Kant claims that the most probable explanation for the hexagon is that a human being has constructed it in accordance with concepts. The hexagon thereby serves as a probable sign of the purposive activity of a human agent. Fichte agrees that 'purposive activity' or 'efficacy governed by concepts' serves as a 'distinguishing characteristic of rationality'. Yet it is merely a 'negative' characteristic: if it *cannot* be applied to the object in question, then the object cannot have a 'rational author'.⁶⁰ However, the presence of this characteristic does not entail that the object has a rational author. In other words, the

presence of this characteristic is a necessary but not sufficient condition of rational authorship. Indeed, as Fichte points out, certain natural phenomena may be seen to exhibit purposefulness:

The distinguishing characteristic of purposefulness is the harmony of multiplicity in a unity. But many types of such harmony are explicable merely by natural laws—not *mechanical laws*, but *organic* ones certainly.⁶¹

The 'negative characteristic' is therefore inadequate; it must be supplemented with another characteristic — a characteristic that will guarantee that our inference is 'certain' (*sichere*).

Fichte points out that natural phenomena which exhibit purposiveness are characterized by the fact that they are governed by necessary laws — 'nature operates in accordance with *necessary laws*'. Reason, on the other hand, 'operates *freely*'. Consequently:

The freely achieved harmony of multiplicity in a unity would thus be a certain and non-deceptive distinguishing feature of rationality within appearances. The only question is how one can tell the difference between an effect one has experienced which occurs necessarily and one which occurs freely.⁶²

In order to answer this question, Fichte develops a sophisticated argument from analogy. He begins by considering my knowledge of my own freedom, 'freedom within me'. My own freedom cannot be an object of consciousness, Fichte claims, because it is the 'ultimate explanatory basis for all consciousness'.⁶³ Freedom is presupposed by all consciousness and therefore any attempt to become conscious of freedom is pointless. However, I can attain what might be termed a 'negative' consciousness of my freedom:

What I can become conscious of [...] is that I am conscious of no cause for a certain voluntary determination of my empirical I other than my will itself. As long as one has explained oneself properly in advance, one might well say that this very lack of consciousness of a cause is itself a consciousness of freedom [...].⁶⁴

This 'negative' awareness of freedom provides the basis for Fichte's argument from analogy. This argument from analogy differs from the standard version (typically associated with Mill) in two respects. Firstly, the analogy is not based on an experienced connection between my thoughts and behaviour. It is based on an abductive inference from my behaviour to the cause of my behaviour (freedom is the best possible explanation for my action). Secondly, the analogical inference depends upon *interaction* between myself and the object. I freely *act* upon the object and its *response* indicates whether it is a being analogous to me. If its response is explicable

in accordance with *natural* laws I cannot be certain that it is a rational being like myself. If its response *cannot* be explained by natural causes, but can only be explained by the law of freedom upon which I acted, I may infer with certainty that it is a rational being. Fichte presents the argument as follows:

Suppose now that the manner of behavior of that substance which is presented to us through appearances is altered, altered by *our* free action (of which we were conscious in the sense just indicated), and altered so that it no longer remains explicable by *that* law in accordance with which it operated previously, but can only be explained by that law upon which we have based *our* own free action—a law which is quite opposed to the previous law. The only way in which we could account for the alteration in this case is by assuming that the cause of the effect in question was also rational and free. Thus there arises, to use the Kantian terminology, an *interaction* [or 'reciprocal action'—*Wechselwirkung*] governed by concepts, a purposeful community. And this is what I mean by "society"—the concept of which is now completely determined.⁶⁵

Fichte's argument is rather abstract, and seems far removed from concrete intersubjective relationships. However, when shorn of its abstract terminology, it is readily intelligible. Fichte is describing an hypothetical original encounter in which I act upon the other being in a way which manifests my freedom. My action calls upon the other being to modify its behaviour and this modification affects me. If the other being's behaviour remains explicable in terms of natural necessity, I have no certain sign that it is a rational being. If, on the other hand, the behaviour of the other being 'can only be explained' by the law of freedom which motivated my action, I may legitimately infer that the other being is a rational being. I may also legitimately infer, although Fichte does not say so explicitly, that the other rational being recognizes me as a rational being. This is because his free response to my action presupposes that he grasps my action as free purposive action, viz., as the action of a rational being. In other words, the relationship of recognition is not one-sided; it is *mutual*.

Fichte's argument breaks with Kant's approach in several ways. Firstly, Kant presented the traveller's inference as a merely reflective judgement which, as such, constituted a merely *probable* inference. It permitted the traveller to *think* that another rational being produced the hexagon, but did not allow him to *know* this. Such knowledge would require 'determining' rather than reflective judgement — the subsumption of a corresponding intuition under a given concept, in this case, the concept 'rational being'.⁶⁶ For Kant, such judgement is impossible, as there can be no intuition of other rational beings. As he puts it in the Paralogisms — 'thinking beings, **as such**, can never come before us among outer appearances'.⁶⁷ In opposition to Kant, Fichte thinks that free activity can be presented in the phenomenal world. Admittedly, we can only apprehend this free activity by means of an abductive inference (which Fichte assumes, wrongly, to provide certain knowledge). Nevertheless, the fact that Fichte considers such an inferential move to be possible marks a significant step

beyond Kant: it means that we can have knowledge of something which Kant ascribes to the noumenal. Kant's strict separation between the phenomenal and the noumenal is therefore overcome.

Secondly, as we noted at the end of Part I of this study, the traveller's reflective judgement afforded probable knowledge of man as a 'theoretical' being — a being capable of geometrical construction in accordance with the categories and forms of sensibility (space and time). The judgment presented by Fichte, on the other hand, affords 'certain' knowledge of man as a practical being; a being whose response to the influence exercised upon it can only be explained as the response of a free, rational being.

Finally, Fichte's use of the 'Kantian terminology' is also worth noting. Fichte draws upon the categories of Relation as they are 'schematized' in the 'Analogies of Experience' of the first *Critique*.⁶⁸ Fichte's description of the other being with which we are initially confronted draws upon the First Analogy's schematism of the category of substance. The action we exercise on the other being and the action which the other being exercises on us, is described in terms of the Second Analogy's schematism of the category of cause and effect (the time-order in which the actions and their effects occur is irreversible), while the resultant intersubjective relationship of mutual recognition is described in terms of Kant's category of 'community' (*Gemeinschaft*).⁶⁹ This use of Kant's categories to describe intersubjective relations amounts to what we might describe as a 'socialization' of Kant's categories: the concepts of theoretical reason are shown to determine social relations.⁷⁰ Indeed, society is now defined in terms of Kant's category of community. By transforming Kant's categories in this way Fichte is laying the foundations for what I shall term a 'logic of intersubjectivity'. This logic, which seeks to specify the different modes of interaction between agents, will receive further development in the 1796-7 *Foundations of Natural Right*.

Having answered the question concerning our assumption that there are other rational beings and the characteristics which enable us to recognize them, Fichte returns to the topic of the lecture: the vocation of man within society. The positive distinguishing feature of society is unconstrained, 'free interaction' (*Wechselwirkung durch Freiheit*). This interaction is not a means to an end, it is not carried out for the sake of anything else. Nevertheless, this does not exclude the possibility that the way in which society 'operates' is 'governed by an additional, more specific law, which establishes a more specific goal for the operation of society'.⁷¹ This further law is determined by the fundamental social drive with which Fichte explained the origin of our assumption that there are other rational beings. This drive is a drive to discover other 'men' external to oneself and presupposes that one has the concept of that for which one is looking. Now the concept of man is not simply a descriptive concept, it is

a normative concept. Fichte calls it an 'idealistic concept' (*idealischer Begriff*) due to the fact that the norm it represents is 'unachievable' — the idea of perfection is something to which we must 'endlessly approximate'. Each subject of experience has his own ideal of man, his own image of what man should be like. The content of all these ideals is the *same* — man as a rational, progressive being, although they may differ in complexity or 'degree' (my ideal of human perfection may be rather simpler and less refined than yours). The fundamental social drive urges each subject of experience to search for something that resembles his ideal of man. On encountering those whom he 'recognizes [*anerkennt*]' as men' he judges them according to his ideal. Now, he may find that they fail to satisfy his concept. They may exhibit traits such as ignorance, greed or cruelty. However, as rational beings they are, in principle, capable of satisfying his ideal. He therefore seeks to 'raise' (*heben*) them to his ideal. This 'raising' is an educative relationship of a special sort. It is non-coercive and is founded upon free interaction. Fichte describes this relationship as a 'spiritual struggle' in which each seeks to convince the other of the truth of his conception of man. Fichte claims that the 'higher and better' man will always win this struggle, by rationally persuading the other to accept the higher ideal. Insofar as the higher men will always convince the lower men to adopt their ideals, 'the *improvement of the species* has its origin within society'. Such improvement, Fichte claims, is the 'vocation of all society as such'.⁷²

Fichte's conviction that the better man will always win this struggle seems rather odd. For why shouldn't the 'lower' man simply ignore the higher man's entreaties? Why shouldn't he verbally or physically abuse his interlocutor, rather than listen to him? An answer to this question is suggested in the following paragraph:

But on the whole the better person will certainly be victorious, and this is a source of reassurance and solace for the friend of mankind and truth when he witnesses the open war [*offenen Krieg*] between light and darkness. The light will certainly win in the end. Admittedly, we cannot say how long this will take, but when darkness is forced to engage in public battle [*öffentlichen Kampf*] this is already a guarantee of impending victory. For darkness loves obscurity. When it is forced to reveal itself it has already lost.⁷³

What is crucial in this paragraph is the use of the adjectives *offenen* and *öffentlichen*. For Fichte is suggesting that the battle takes place in the public sphere — *Öffentlichkeit* — which is, quite literally, 'open' — *offen*. In this arena everything is open to scrutiny and there can be no dissimulation. Specious arguments will be revealed for what they are and the better argument will triumph. The 'lower man' will, to borrow Habermas' phrase, be motivated by the 'peculiarly unforced force of the better argument' (*den eigentümlich zwanglosen Zwang des besseren Argumentes*).⁷⁴

Although man's vocation for society stems from the 'innermost and purest part of his nature', it is still a 'drive' (*Trieb*). It must therefore be subordinated to the moral

law. A consideration of the way in which the social drive is determined by the moral law will, Fichte claims, reveal the vocation of man within society. Now this moral law determines the social drive, both 'negatively' and 'positively'. The moral law determines the social drive negatively by stipulating which actions are, by virtue of the fact that they contradict the social drive, prohibited. The moral law determines the social drive positively by stipulating which actions are, insofar as they are in harmony with the social drive, required. Fichte begins with the negative determination of the social drive.

The goal of the social drive is '*interaction, reciprocal influence, mutual give and take, mutual passivity and activity*'.⁷⁵ The social drive does *not* seek to unilaterally exert a causal influence upon the other, who would passively receive the effect of this influence. The social drive strives to find other rational beings and to enter into 'community' with them. It strives for 'co-ordination', not for the 'subordination' which characterizes the natural world. Fichte claims that anyone who doesn't allow the rational beings he discovers to be free, is 'taking into account only their *theoretical ability*, not their free practical rationality.' What Fichte means by this is that once we recognize another rational being we must treat him or her appropriately — as an end in itself. Treating the other as an end in itself involves entering into a reciprocal relationship in which each respects the other (this is recognition in its 'honorific' sense). It does *not* involve treating the other as a mere 'thing' which can be manipulated for one's own pleasure. Now Fichte is not denying, any more than Kant does, that we sometimes use others as means to our ends.⁷⁶ What he is objecting to is the treatment of others as *nothing more than means*. To treat them in this way is to use them for their technical capacities, or '*theoretical ability*' (which ability is all that is revealed by the reflective judgement of Kant's traveller). Thus, if I only took into account my postman's theoretical ability, I would regard him as a mere mail-delivery machine or, as Fichte puts it, a 'talented beast'.⁷⁷ I would not be concerned with his intrinsic value as a rational being, but would be acting as though I were his 'master' (*Herr*).⁷⁸ Fichte agrees with Rousseau's claim that anyone who thinks himself the master of others is more of a slave than they, but goes further: whoever thinks himself a master *is* a slave, or at least has 'a slavish soul and [...] will grovel on his knees before the first strong man that subjugates him.'⁷⁹ It is not hard to see the basis here for Hegel's dialectic of mastery and servitude.

Treating people as mere means to one's own ends contradicts the social drive and is prohibited by the moral law. Fichte is therefore in agreement with Kant's Formula of Humanity. Yet Fichte extends Kant's formula to exclude the possibility that we might seek to use others as means to *their own* ends. 'One may not', Fichte claims, 'make any rational being virtuous, wise or happy against his own will'.⁸⁰ The notion that one may force others to be free is therefore excluded as are all paternalistic

conceptions of education. It is simply unacceptable to try to coerce, persuade or 'dupe' the 'lower man' to give up his dogmatic disposition and attain an awareness of himself as a spontaneous, free agent.

It is with Fichte's discussion of the positive determination of the social drive by the moral law that we finally discover the vocation of man within society. All individuals differ from one another in the capacities that they possess and the beliefs that they hold. Nevertheless, there is one thing with which they are in 'complete agreement': perfection, the goal of man as such.⁸¹ The proposition that the goal of man is perfection is therefore — using terminology introduced in the first part of this study — an 'intersubjectively valid' proposition, viz., a proposition which everyone could, in principle, rationally agree upon. Fichte states that the defining characteristic of perfection is that it is 'totally self-identical'. Consequently, if all men could attain perfection they would all be identical to one another, or, 'totally equal'. They would, Fichte contends, 'constitute but one single subject'. Precisely what this one single subject would be like is hard to tell. The most obvious reference point is Rousseau's notion of the 'general will' and its Kantian counterpart — the 'Kingdom of Ends'. Yet, the precise nature of this subject is perhaps beside the point. For the highest goal of society is a regulative idea — an idea which we can strive for, but never hope to attain. Nevertheless, it is the vocation of man in society to 'endlessly approximate towards' this goal. Fichte calls this endless approximation to absolute unity 'unification' (*Verneinigung*). Since the only thing upon which men agree is the proposition that the goal of man is perfection, they can only realize their vocation by a 'process of communal perfection'. This communal perfection is man's social vocation. It involves 'perfecting ourselves by freely making use of the effect which others have on us and perfecting others by acting in turn upon them as upon free beings'.⁸²

In order to realize our social vocation the skill of '*sociability*' (*Gesellschaftlichkeit*) is required.⁸³ This skill is the skill to non-coercively 'raise' others to our 'ideal' of man. It is, Fichte claims, acquired and developed through culture. Now, sociability is two-fold. It is the 'skill of *giving*' — the skill to 'affect others as free beings'. Yet it is also the 'capacity for *receiving*' — the capacity to 'make the most of the effects which others have on us'. Fichte stresses that the latter is as important as the former — we should be prepared to listen to what others have to tell us. The assumption that we have nothing to learn from others is both arrogant and misguided. As Fichte rightly points out, 'rarely is anyone so perfect that he cannot be further educated by almost anyone'.⁸⁴ Sociability is therefore the ability to enter into free interaction with others — a free interaction in which we mutually benefit one another. It is through this ability that society will develop towards its unattainable goal — absolute unity.

Fichte's image of unconstrained dialogue as the motor of the moral progress of society is powerful. It is also profoundly cosmopolitan. For insofar as *any* rational being may participate, the dialogue will include people of all societies, cultures and races. Fichte writes:

No one whose face bears the stamp of reason, no matter how crude, exists for me in vain. But I am unacquainted with you, as you are with me! Still, just as it is certain that we share a common calling—to be good and to become better and better—it is equally certain that there will come a time (it may take millions or trillions of years—what is time!) when I will draw you into my sphere of influence, a time when I will benefit you too and receive benefit from you, a time when my heart will be joined with yours in the loveliest bond of all—the bond of free mutual give and take.⁸⁵

In our capacity as rational beings we are therefore all members of what K.-O. Apel has called an 'unlimited communication community', a community which transcends national, cultural and racial differences.⁸⁶

The Vocation of the Scholarly Class

The scholar is a member of society. More specifically, she is a member of a specific social 'class' — the 'scholarly class' (*Gelehrtenstand*). Fichte's third lecture seeks to provide a philosophical justification for the 'inequality' of social classes. The class inequality in question is not economic — the German *Stand* is closer in meaning to the French '*état*' or English 'estate', i.e., a social group devoted to a particular occupation.⁸⁷ Fichte's aim is perhaps best expressed as that of justifying the *different functional roles* of such groups within society.

As we saw in our discussion of the first lecture the not-I, or nature, determines the specific nature of the subject of experience. Given the diversity and multiplicity of the not-I, no two human beings or 'individuals' (*Individuen*) are determined in the same way.⁸⁸ We might say that nature individuates human beings. Now, nature is responsible for the particular capacities or talents which each individual possesses. These talents serve to satisfy natural needs. Insofar as nature determines each subject of experience differently, each individual possesses a different set of talents. Insofar as no two subjects of experience possess the same talents, there is a *natural inequality* between individuals.

Now the supreme law of self-harmony demands that each individual cultivate all of his talents equally and to the greatest degree of perfection possible. It also demands that all of the various members of society be 'cultivated or educated equally'. It is through such cultivation that society can approximate towards total harmony.

Such equality is to be achieved through the two drives contained within the social-drive — the 'drive to communicate' (*Mitteilungstrieb*) and the 'drive to receive' (*Trieb zu empfangen*).⁸⁹ By means of these drives, each subject can pass on his

capacities to those who lack them and receive the capacities he lacks from those who possess them. This interpersonal activity of 'giving' and 'receiving' allows each individual to share their particular capacities with the whole of society. By joining together in this way, individuals form a 'united front' against the multiplicity of nature.

This joining together takes place, rather paradoxically, through the division of society into classes. The need for specific classes arises from the fact that it would be pointless for the individual to attempt to develop *all* possible talents. Such an attempt would require an infinite amount of time and would contribute nothing to the development of the human species.⁹⁰ The individual should therefore choose to develop *one* of the set of capacities he possesses, entrusting the development of his other capacities to society.

By choosing to develop a specific capacity the individual has also chosen to enter a class, for 'My class is determined by the particular skill to the development of which I freely dedicate myself'.⁹¹ Through this division of humanity into classes all talents are developed equally as the common property of humanity. Natural inequalities or differences are therefore remedied through the social 'inequality' of a class system.

The development of talents which the class system facilitates is also the development of culture *qua* the progressive mastery of inner and outer nature. And it is through culture that society can fulfil its ultimate vocation — the endless approximation towards complete harmony (both intrasubjective and intersubjective). The apparent divisiveness of the class system is therefore illusory — the individual classes all strive towards a common goal — complete harmony.

Within this common project, one class in particular plays a crucial role. The 'scholarly class' is charged with the supervision of the progressive development of humanity. The vocation of the scholarly class is the '*supreme supervision of the actual progress of the human race in general and the unceasing promotion of this progress*'.⁹² Membership of this class requires the possession of specific types of cognition. In order to fulfil his class vocation, the scholar must possess three types of cognition — 'philosophical' knowledge, 'philosophical-historical' knowledge and 'historical' knowledge.⁹³ Philosophical knowledge is knowledge of man's talents and needs. Philosophical-historical knowledge is knowledge of these needs and the *means* for the satisfaction of these needs. Historical knowledge is knowledge of the particular developmental stage humanity has reached and of the means required to reach the next developmental stage. All three types of knowledge are required. The scholar must also, if he is to guide humanity, be ethically good; indeed, he must be the '*ethically best man of his time*'. Finally, the scholar must have developed the social talents of giving and receiving to a particularly high degree. He must be capable of transmitting his

knowledge and be open to the knowledge of others. Only in this way can he hope to fulfil the vocation of his class.⁹⁴

Fichte's image of the scholar's vocation is edifying. Yet one could be forgiven for regarding it as somewhat unrealistic and naive. Indeed, one might think that the same could be said of Fichte's notion of society as an open society in which everyone is united by the intersubjective 'bond of free mutual give and take'. Real societies, one might object, are driven mainly by cupidity and selfish egoism. Indeed, it is often the case that the 'lower man' simply ignores the rational entreaties of the 'higher and better' man. Why, one might ask, does Fichte think that positive intersubjective relationships will prevail over negative ones. In order to answer this question a brief discussion of the role of the concept of the 'state' (*Staat*) in the *Lectures* will be helpful.

The State as a Means

Fichte's account of society as an open-ended dialogue between individuals may seem somewhat unrealistic. For much of our interaction is not unconstrained dialogue in which everyone may participate, but coercive and distorted communication in which we seek to manipulate one another. Borrowing Apel's terminology, we might claim that Fichte confuses 'the real communication community' with the 'ideal communication community'.

In order to respond to this objection it is important to note that Fichte stresses that he is not describing how things *actually* are. The notions of society and social classes are 'practical' or normative concepts — concepts which specify how things *ought* to be.⁹⁵ How human society *actually is*, is a rather different matter. In order for the normative concept of society to be realized, it would seem that certain institutional arrangements are required to regulate and govern intersubjective relationships. In the *Lectures* Fichte says little about such arrangements. Nevertheless, he does suggest — in the second lecture — that it is the *state* (*Staat*) which regulates intersubjective relationships, constraining those who seek to treat their fellow men as mere means. In other words, positive intersubjective relationships triumph over their negative counterparts, because the latter are *prohibited* by the state.

According to Fichte, the state serves a mediating function: 'The state is [...] only a *means for establishing a perfect society*, a means which exists only under specific circumstances'.⁹⁶ The state therefore provides the conditions of the possibility of free interaction between agents and it is such free interaction which allows humanity to endlessly approximate towards its ultimate goal — complete perfection and unity. This notion of the state as a means for the fulfilment of humanity's vocation will be fully explored in the 1796-7 *Foundations of Natural Right* in which the domain of right

mediates between theoretical and practical reason. In the present context, the notion of the state as a 'means' motivates Fichte's infamous claim that the state will be abolished. It is this claim that reinforced Fichte's reputation as a Jacobin who believed, in the words of Voigt, that 'in ten or twenty years there will be no more kings or princes'. Given the gravity of the charge, it is worth comparing Voigt's phrasing with Fichte's actual argument. Fichte writes:

Like all those human institutions which are mere means, the state aims at abolishing itself. *The goal of all government is to make government superfluous.* Though the time has certainly not yet come, nor do I know how many myriads or myriads of myriads of years it may take (here we are not at all concerned with applicability in life, but only with justifying a speculative proposition) there will certainly be a point in the foreordained career of the human species when all civic bonds will be superfluous. This is the point when reason, rather than strength or cunning, will be universally recognized as the highest court of appeal. I say "be recognized" [*Anerkannt seyn sage Ich*] because even then men will still make mistakes and injure their fellow men thereby. All they will then require is the goodwill to allow themselves to be convinced that they have erred and, when they are convinced of this, to recant their errors and make amends for the damages. Until we have reached this point we are, speaking quite generally, not even true men.⁹⁷

Fichte's own view is in stark contrast to Voigt's phrasing, which suggests that Fichte is offering an empirical prognosis. For Fichte clearly regards the point at which the state will be abolished as a very distant point in the future. At such a stage in the development of humanity, the state will no longer be required to ensure that human beings mutually recognize one another (recognition in the *honorific* sense). For the norms of interaction which the state upholds will be universally *recognized* as binding; they will not need to be imposed 'from outside'. Now, such a stage in human development would be very different from human society as we know it — it would be similar to the 'ideal communication community' envisaged by K.-O. Apel. In such a community everyone would recognize one another as 'ends in themselves' and would interact accordingly. Such a community would be very close to the unattainable ideal of a perfect, totally equal community in which everyone would 'constitute but one single subject'.

Regardless of whether this community is attainable or not it is, Fichte claims, incumbent upon us to strive towards it. It serves as a goal towards which we can and must work. Such a goal cannot be achieved by violent and bloody rebellion, but can only be achieved by free interaction. And it is the function of the state, Fichte claims, to secure and guarantee the conditions of the possibility of such interaction.

This concludes our discussion of the *Lectures*. We have seen that Fichte's arguments are motivated by a profound concern with intersubjectivity. And we have seen that this concern is expressed in three ways: as a concern with justifying our claim that other rational beings exist, as a concern with the role that intersubjective

relationships play in human development and, finally, as a concern with the institutional conditions which guarantee positive, non-coercive intersubjective relationships.

As we noted at the beginning of this chapter, the *Lectures* were delivered at the *same time* as the 1794-5 *Foundations*. This chronological fact poses problems for the traditional interpretation of the latter work. For it is hard to see how the alleged concern of the 1794-5 *Foundations* with an absolute subject as the author of reality is compatible with the concern of the *Lectures* with intersubjective relationships. Indeed, as Gueroult has pointed out, there seems to be a manifest inconsistency between Fichte's 'subjective idealism' and his commitment to 'practical realism'. In order to save Fichte from the charge of inconsistency, an alternative reading of the 1794-5 *Foundations* must be developed. It is to this task that we now turn.

NOTES

- ¹ C. G. Voigt to Goethe cited in EPW, p. 139.
- ² Goddard, 1999, p. 85.
- ³ EPW, p. 145.
- ⁴ The following discussion draws upon the work of Vieillard-Baron and Breazeale. See Vieillard-Baron, 1969, pp. 94-96 and Breazeale in EPW, p. 141, footnote 12.
- ⁵ Breazeale in EPW, p. 141.
- ⁶ It is used in this sense by Kant in the 'Architectonic of Pure Reason' of the first *Critique* and the 'Analytic of the Sublime' of the third. See C1, A840/B868 and C3, §39.
- ⁷ Breazeale in EPW, p. 141, footnote 12.
- ⁸ EPW, pp. 145-6.
- ⁹ EPW, p. 146.
- ¹⁰ This phrase is to be found in the announcement of Fichte's lectures that accompanied *Concerning the Concept*. Cited by Breazeale in EPW, p. 138.
- ¹¹ EPW, p. 147.
- ¹² EPW, p. 148.
- ¹³ EPW, p. 147.
- ¹⁴ EPW, p. 146.
- ¹⁵ EPW, p. 147.
- ¹⁶ EPW, p. 146, footnote *.
- ¹⁷ EPW, p. 147.
- ¹⁸ EPW, p. 147.
- ¹⁹ EPW, p. 148.
- ²⁰ EPW, p. 148.
- ²¹ SW, I, p. 98.
- ²² EPW, p. 148.
- ²³ EPW, p. 148.
- ²⁴ EPW, p. 162. See Vieillard-Baron, 1969, p. 106.
- ²⁵ EPW, p. 148.
- ²⁶ EPW, p. 148.
- ²⁷ EPW, p. 148.
- ²⁸ EPW, p. 149.
- ²⁹ Vieillard-Baron, 1969, p. 101.
- ³⁰ EPW, p. 149.
- ³¹ EPW, p. 149. Translation modified.
- ³² This is not to suggest that there are different kinds of identity relation for different kinds of thing. It is simply to suggest that their relations differ. I am grateful to S. C. Gibb for clarification on this point.
- ³³ Vieillard-Baron, 1969, p. 102. Kant's description, in the second Paralogism, of the 'I think' as the 'form of apperception' would seem to be relevant here. C1, A354.
- ³⁴ EPW, p. 149.
- ³⁵ EPW, p. 149.
- ³⁶ EPW, p. 149.
- ³⁷ EPW, pp. 149-150.
- ³⁸ EPW, p. 150.
- ³⁹ EPW, p. 150.
- ⁴⁰ EPW, p. 152.
- ⁴¹ Hegel, 1969, p. 229. Inwood, 1992, pp. 139-142.
- ⁴² Feuerbach cited in Philonenko, 1999, p. 66. It is interesting to note how morally unsatisfying Hegelian proclamations of the end of history are. Kojève's claim that history had ended in late 1950's Japan is, to put it mildly, bizarre. Kojève, 1969, pp. 161-2. Presumably, Kojève thought that Japan had reached the zenith of cultural and political development. Francis Fukuyama's claim that the end of history was heralded by the liberal politics and economy of late 20th Century America is hardly more convincing. The reason why these visions of the end of history are so disappointing is the fact that they are so incomplete: they all ignore criteria which we would wish to see satisfied before judging something to be the culmination of humanity's development. Thus, to take the case of America, it is hard to understand how a society with considerable social injustice could be taken to represent the end of human development, regardless of its technological and economic achievements. It might be argued, as Fukuyama *does* argue, that the basic political and economic structures are in place with which to resolve problems of social justice; but *until* these problems are actually resolved it is precipitous to speak of the end of history. Promissory notes are inconsistent with the claim that history has ended.
- ⁴³ Taylor, 1975, p. 91.
- ⁴⁴ Hegel, 1975, p. 69.
- ⁴⁵ EPW, p. 153.
- ⁴⁶ EPW, pp. 153-4.
- ⁴⁷ EPW, p. 154.
- ⁴⁸ Inwood, 1992, p. 245.

- ⁴⁹ In his entry on 'recognition' Inwood claims that Fichte and Hegel are not, in their discussions of recognition, particularly concerned with the epistemological problem of other minds. Regarding Fichte this is simply incorrect. Fichte's demand that the *quid juris* concerning our knowledge of other rational beings be answered is a demand for epistemic justification. See Inwood, 1992, p. 245.
- ⁵⁰ In 'meta-ethical' terms, Fichte is an 'internalist'. He maintains that knowing a moral duty provides sufficient motivation for acting as the duty prescribes.
- ⁵¹ EPW, p. 154.
- ⁵² EPW, p. 154.
- ⁵³ EPW, p. 154.
- ⁵⁴ EPW, p. 154.
- ⁵⁵ C1, A345-347/B404-405.
- ⁵⁶ EPW, p. 154. SW, VI, p. 303.
- ⁵⁷ EPW, p. 155.
- ⁵⁸ EPW, p. 155.
- ⁵⁹ EPW, p. 156.
- ⁶⁰ EPW, p. 155.
- ⁶¹ EPW, p. 155.
- ⁶² EPW, p. 155.
- ⁶³ EPW, p. 155.
- ⁶⁴ EPW, p. 155-6. This argument from the absence of awareness of non-voluntary causation is not terribly convincing — I may be determined by natural causes that I can have no consciousness of, e.g., 'unconscious' drives or urges.
- ⁶⁵ EPW, p. 156.
- ⁶⁶ C3, p. 179.
- ⁶⁷ C1, A357.
- ⁶⁸ C1, A176/B218-B265/A218.
- ⁶⁹ C1, A80/B106.
- ⁷⁰ I owe this point to Vieillard-Baron, 1969, pp. 120-1.
- ⁷¹ EPW, p. 157.
- ⁷² EPW, p. 157.
- ⁷³ EPW, p. 158. SW, VI, pp. 307-8.
- ⁷⁴ Habermas, 1984, pp. 144, 161.
- ⁷⁵ EPW, p. 158.
- ⁷⁶ Like Kant, Fichte qualifies the claim that one cannot use others as means to one's ends: 'One may not work upon them as one works upon dead matter or animals, that is, using them *simply* as a means for accomplishing one's ends without taking their freedom into account'. EPW, p. 159.
- ⁷⁷ EPW, p. 158.
- ⁷⁸ EPW, pp. 158, 159. SW, VI, p. 309.
- ⁷⁹ EPW, p. 159.
- ⁸⁰ EPW, p. 159.
- ⁸¹ EPW, p. 159. SW, VI, p. 310.
- ⁸² EPW, p. 160.
- ⁸³ EPW, p. 158. SW, VI, p. 308.
- ⁸⁴ EPW, p. 160.
- ⁸⁵ EPW, pp. 160-1. SW, VI, p. 311.
- ⁸⁶ Apel, 1998b, p. 267.
- ⁸⁷ See Breazeale in EPW, p. 161, footnote 16.
- ⁸⁸ EPW, p. 162. SW, VI, p. 314.
- ⁸⁹ EPW, pp. 163-4. SW, VI, p. 315.
- ⁹⁰ EPW, p. 167.
- ⁹¹ EPW, p. 165.
- ⁹² EPW, p. 172.
- ⁹³ EPW, pp. 171-2.
- ⁹⁴ EPW, p. 173.
- ⁹⁵ EPW, p. 168.
- ⁹⁶ EPW, p. 156.
- ⁹⁷ EPW, pp. 156-7. SW, VI, pp. 306-7.

THE FOUNDATIONS OF THE *WISSENSCHAFTSLEHRE*

Origins of the 1794-5 *Foundations of the Entire Wissenschaftslehre*

The 1794-5 *Foundations of the Entire Wissenschaftslehre* is a notoriously obscure and difficult text. There are several reasons for this. Firstly, as Fichte notes in the 1795 *Preface*, the manuscript was intended for his students, and was to be expanded upon in the actual lectures.¹ It was written in a hurry, Fichte frequently completing sections just prior to the lectures. He therefore never intended it for the general philosophical public, although he did consent to its publication. Secondly, as Fichte again explains in the 1795 *Preface*, he did not tell the reader everything, because he wished to 'encourage independent thought'.² Fichte therefore wanted to encourage his readers to engage with the text, to actively *think* it, and this may explain his abstruse, neologistic terminology. Finally, Fichte was extremely hostile to certain attempts to 'popularize' Kant's philosophy, and he may have developed the new vocabulary to distance his 'presentation' (*Darstellung*) of transcendental idealism from those attempted by the 'Kantians'. In this way he would avoid using a terminology that had been distorted by misinterpretation and fulfil his task of presenting the 'spirit' rather than the 'letter' of Kant's transcendental idealism. Unfortunately, Fichte's innovative terminology and style created considerable confusion, leading him to attempt a new, more intelligible 'presentation' of the foundations of the *Wissenschaftslehre* — the 1796-99 *Wissenschaftslehre nova methodo*. This new presentation is sometimes taken to be markedly different in content from that of the 1794-5 *Foundations* (Druet claims that it represents a turn towards a 'dogmatic' conception of philosophy).³ Nevertheless, whilst there are certain differences, I feel that the only truly significant change is the one that Fichte himself indicates — the change in presentation. And this change is significant insofar as the new presentation greatly clarifies Fichte's thought, often providing insight into earlier writings of the Jena period. I shall therefore often draw upon the texts associated with this new presentation (including the two *Introductions*) to clarify the arguments of the 1794-5 *Foundations*.

As mentioned previously, the 1794-5 *Foundations* is intended to provide the *foundation* for the system and is not the system itself. This foundational status was not, as Fichte himself partially acknowledges in the 1795 *Preface*⁴, made sufficiently clear in the 1794 *Concerning the Concept* essay. We must therefore bear in mind that the

1794-5 *Foundations* does not provide the system itself, but merely the foundational elements from which it may be derived.

An Overview of the 1794-5 *Foundations of the Entire Wissenschaftslehre*

The 1794-5 *Foundations* is composed of three parts. The first part is entitled 'Fundamental Principles of the Entire *Wissenschaftslehre*' (*Grundsätze der gesamten Wissenschaftslehre*). In this part, Fichte articulates the threefold fundamental 'positing'⁵ activity of the I. This threefold activity is expressed in the three foundational principles from which the two other parts of the work will be derived. The first 'absolutely unconditioned' principle is:

the I posits originally absolutely its own being (*Das Ich setzt ursprünglich schlechthin sein eigenes Seyn*).⁶

The second principle states that:

Opposition in general is posited through the absolute I' (*Das Entgegengesetztseyn ist überhaupt schlechthin durch das Ich gesetzt*).⁷

The third, and final, foundational principle is intended to resolve the apparent conflict between the *absolute* self-positing of the I and its *absolute* positing of a not-I. For, as Fichte points out, if one term is posited absolutely, then the other will be destroyed. But as both terms *are* to be posited they will mutually eliminate each other. To avoid such conflict, they must be posited *in part* only, each term being partially limited so as to allow the other term to be posited. They must therefore both be posited as 'divisible' (*theilbar*), that is, as capable of being divided into parts.⁸ The third principle therefore states that:

In the I, I oppose a divisible not-I to the divisible I.⁹

These principles, Fichte claims, each express an 'act of the mind', or, an act of transcendental subjectivity. The first principle expresses an absolutely unconditioned act of self-positing in which the I asserts itself absolutely. The second and third principles are each partly determined or conditioned by the first act. Now the third foundational principle implicitly contains two opposed principles: '*The I posits itself as limited by the not-I*' and '*The I posits the not-I as limited by the I*'.¹⁰ The former provides the founding principle of the second part of the 1794-5 *Foundations* — the 'Foundation of Theoretical Knowledge', whilst the latter provides the founding principle of the third part — the 'Foundation of Knowledge of the Practical'.

The second part of the 1794-5 *Foundations*, the Foundation of Theoretical Knowledge, seeks to articulate the foundations of our representation of an apparently mind-independent, publicly accessible world. The third and final part, the Foundation of Knowledge of the Practical, seeks to articulate the foundations of our knowledge of what we *ought* to do, i.e., the foundations of moral obligation. Now, it is crucial to note that Fichte establishes a relation of asymmetrical dependence between the theoretical and practical parts. He endorses Kant's thesis concerning the 'primacy' of practical reason, and therefore privileges the second, practical part over the first. Indeed, Fichte argues that the conditions of the possibility of representation (our knowledge of an apparently mind-independent world) are conditioned by the conditions of the possibility of practical knowledge (our knowledge of what we *ought* to do).¹¹ Nevertheless, there *is* a sense in which the practical part is dependent upon the theoretical part. For, unless we found the possibility of our cognition of the world, we cannot hope to found the possibility of our moral action within the world. Indeed, our knowledge of what we *ought* to do is acquired by means of representations accompanied by a 'feeling of necessity'. As Fichte puts it: 'The *thinkability* of the practical principle depends upon that of the theoretical'.¹² The first part is therefore, as Renaut notes, 'first in the order of reasons', although it depends for the possibility of its 'existence' upon the practical part.¹³

Interpreting the 1794-5 *Foundations*

Admittedly, the preceding sketch of the 1794-5 *Foundations* may not appear very helpful. For it fails to explain what Fichte's talk of the 'absolute I' and its 'positing' activity *means*. If such an explanation could be provided, it would provide a clearer insight into the nature of Fichte's transcendental idealism. In what follows I shall provide such an explanation. And I shall use this explanation to provide an interpretation of Fichte's idealism. However, prior to attempting this, I first wish to consider two rival interpretations of the 1794-5 *Foundations*, both of which place considerable emphasis upon the first part of the text. The first interpretation originates in the work of Schelling, and is developed by Hegel and his followers. I shall refer to it as the 'metaphysical' interpretation, insofar as it provides a distinctly non-Critical reading of Fichte's idealism which seeks to reconcile it with Spinozist metaphysics. The second interpretation originates in the work of Alexis Philonenko and has been developed by P-P. Druet, Alain Renaut and Luc Ferry. It is explicitly opposed to the first interpretation, and seeks to provide a Critical reading of Fichte's idealism which places intersubjectivity at the centre of his project. In order to distinguish this 'non-metaphysical' reading from other non-metaphysical approaches¹⁴, I shall refer to it as the 'Antinomical Interpretation'.

The Metaphysical Interpretation

As I noted, the obscure style of the 1794-5 *Foundations* partly reflects Fichte's concern to encourage his readers to think it for themselves. Now, the difficulty of the text certainly had the desired effect — many of its readers *did* think Fichte's idealism for themselves. But the conclusions they reached caused Fichte great consternation, leading him to complain, rather petulantly, that his work had been misunderstood due to the incapacity of its audience. Nevertheless, the interpretation of one of its readers — the young Schelling — was taken to be the definitive reading of Fichte's idealism. This is perhaps not surprising. For Schelling was a disciple of Fichte, and enjoyed, for a period, Fichte's endorsement. Yet the 'metaphysical' reading developed by Schelling has been taken by recent commentators to be a crass misinterpretation of Fichte's idealism, a misinterpretation that fails to grasp the true nature of the first part of the 1794-5 *Foundations*.

Perhaps the clearest example of Schelling's interpretation of Fichte is provided in the 1795 essay *Of the I as the Principle of Philosophy or on the Unconditioned in Human Knowledge*.¹⁵ Whilst the essay makes no explicit reference to Fichte, it is quite obviously intended to be an exposition of Fichte's 1794-5 *Foundations*. Indeed, most of the essay is devoted to a discussion of the absolute I and its positing activity. What is immediately striking about the essay is Schelling's repeated references to Spinoza, whose system he describes (following Fichte) as 'perfect dogmatism', the complete opposite of Fichte's 'perfect criticism'.¹⁶ Schelling's references to Spinoza are almost entirely positive, Schelling often praising Spinoza for his sophisticated conception of substance. His only criticism is that Spinoza conceived of the absolute substance, *Deus sive Natura* (God or Nature), as an absolute object, when he should have presented it as pure subjective activity — as an absolute I. Schelling suggests that Fichte's contribution was to transform Spinoza's absolute object into an absolute subject, a divine power whose positing activity quite literally creates reality in its entirety. Schelling therefore presents the absolute I as an inversion of Spinoza's *Deus sive Natura*, and describes the 'forms of this I' and its positing activity in Spinozistic terms.¹⁷

In developing his interpretation, Schelling also draws upon the notion of 'intellectual intuition' (*intellektuelle Anschauung*), a term which is to be found in Fichte's *Review of Aenesidemus*.¹⁸ Given the complex history and development of this term, it may be useful to remind ourselves of Kant's conception of an 'intellectual intuition' or 'intuitive intellect'. For Kant, the notion of an 'intuitive intellect' is merely a 'regulative idea', something we can *think* but never cognize. Intellectual intuition is defined solely in contradistinction to our sensible mode of intuition, and serves, heuristically, to throw into relief our finite epistemic status.¹⁹ This finite epistemic status is based upon the

fact that human knowledge requires the conjunction of two apparently²⁰ discrete faculties — understanding and sensibility, the first of which actively synthesizes the passively received contributions of the latter. The passivity of our mode of intuition — the fact that it receives its content through ‘affection’ — marks it as sensible. A (hypothetical) being characterized by ‘intellectual intuition’ or ‘intuitive understanding’ would not, by contrast, possess two discrete faculties — understanding and intuition would be perfectly conjoined. Such an absolute subject of experience would actively produce the objects of its thought, which would consequently be *noumena*, not phenomena.²¹ Fichte’s concept of intellectual intuition is far removed from Kant’s understanding of the term. Indeed, as we shall see, the Fichtean conception of intellectual intuition is rather ‘modest’.

Schelling’s Spinozist reading of Fichte is far more accessible than the 1794-5 *Foundations*, and this perhaps contributed to its popularity. Nevertheless, it is demonstrably inaccurate. For Schelling’s conception of the absolute I as a Divine power which actively creates the world of experience, is explicitly rejected by Fichte in the 1794-5 *Foundations*. As we shall see in our discussion of the theoretical part of that work, Fichte provides a penetrating critique of ‘dogmatic idealism’ (which he considers to be the obverse of Spinozistic ‘materialism’ or dogmatic realism) which conceives the objects of experience as entirely created by an omnipotent subject.²²

The Antinomical Interpretation

This ‘non-metaphysical’ interpretation was first developed by Alexis Philonenko in his path-breaking study *La liberté humaine dans la philosophie de Fichte*. Drawing upon the work of R. Lauth²³, Philonenko placed the concept of intersubjectivity at the heart of Fichte’s project. He sought to provide an interpretation of the 1794-5 *Foundations* that would escape the charge of inconsistency often levelled against Fichte’s practical philosophy by the metaphysical interpretation. Philonenko’s approach has been further developed by Fichte scholars such as Druet, Radrizzani, Ferry and Renaut. Renaut’s *Système du droit: Philosophie et droit dans la pensée de Fichte* provides a remarkably clear account of the antinomical interpretation of the 1794-5 *Foundations*.²⁴ I shall therefore draw upon it in the following account.

Both Philonenko and Renaut introduce their interpretation with critical reference to Martial Gueroult’s Hegelian interpretation of Fichte. In *L’évolution et la structure de la Doctrine de la Science chez Fichte*, Gueroult claims that there is a fundamental inconsistency between the theoretical and practical parts of the 1794-5 *Foundations*. Following the metaphysical interpretation, Gueroult claims that the theoretical part provides an account of the creation of reality by the activity of the absolute I. He then proceeds to claim that it is hard to see how, in the practical part, one could assert the

existence of a mind-independent external world (a world inhabited by subjects and objects of action) in which to act. Gueroult concludes from this that the second and third parts of the 1794-5 *Foundations* are thoroughly incompatible and mutually exclusive: if one accepts the theoretical part, one must reject the practical part, and *vice versa*. We are therefore faced with an apparent dilemma.²⁵

For Philonenko and Renaut, however, this is a false dilemma, which rests upon a misguided interpretation of the 1794-5 *Foundations*. They claim that the notion that the I 'creates' reality results from a flawed reading of the first two parts of the 1794-5 *Foundations*. And as this reading proceeds from the notion that the foundational principles begin with an act of intellectual intuition, in which a Divine subject actively intuits itself, both Philonenko and Renaut focus their attention upon the first part of the 1794-5 *Foundations*. Philonenko repeatedly points out that the notion of intellectual intuition is *never* mentioned in the first section of the 1794-5 *Foundations* and claims that it plays an insignificant role in Fichte's idealism. According to Philonenko, Fichte would never have discussed intellectual intuition in the works relating to the 'new presentation', had he not wished to undermine Schelling's mystical treatment of the notion.²⁶ Philonenko is therefore keen to reject the notion that the threefold positing activity of the I presented in the first part of the 1794-5 *Foundations* is to be understood as the Promethean power of an 'intuitive intellect'. But if we reject this notion, how are we to understand the opening moments of the text? Philonenko's response to this question is both ingenious and fascinating.

In *La liberté humaine dans la philosophie de Fichte* Philonenko points to the fact that Fichte copied out Kant's 'certain and useful warning' (in the *Critique of Pure Reason*) that 'general logic, considered as an organon, is always a logic of illusion, i.e., is dialectical.'²⁷ Fichte was therefore clearly aware of Kant's 'warning', and this, Philonenko claims, throws a new light on the three foundational principles of the 1794-5 *Foundations*. For Fichte derives each principle by considering logical laws, beginning with the principle of identity. If Fichte had Kant's warning in mind when writing the 1794-5 *Foundations*, he would have known that such a procedure would result in a dialectic. Philonenko therefore argues that Fichte clearly intended to derive a dialectic from the laws of formal logic. Consequently, the 1794-5 *Foundations* does not begin with the true, but proceeds from the false to the true. It therefore constitutes an inversion of the Kantian procedure, insofar as it proceeds from the 'Transcendental Dialectic' to the 'Transcendental Analytic'. Philonenko provides further textual support for these claims by citing two passages, both of which refer to the process of the *Wissenschaftslehre* as the emergence of truth from error.²⁸

On the basis of such evidence, Philonenko and Renaut argue that the foundational principles constitute a 'dialectic' in Kant's sense of the term: a 'logic of

illusion'. They claim that the foundational principles of the 1794-5 *Foundations* are *ideas* of reason, merely regulative, heuristic concepts which cannot be applied to sensible intuition.²⁹ According to Renaut, the first principle — which expresses the I's absolute self-positing — 'belongs to the paralogsms [...], to the metaphysical illusions that can be committed regarding the human subject.' The second principle 'corresponds to the cosmological idea, to the idea of the world as a thing in itself or, which amounts to the same thing, as an object that is *by definition* external to representation.' The third, and final, principle (the synthesis between absolute I and absolute not-I) corresponds, Renaut claims, to the theological idea, insofar as it conceives of an absolute subject which is the '*substrate*' and guarantor of the synthesis between I and not-I.³⁰ For Renaut and Philonenko, then, the three foundational principles are illusory, and it would be a grave mistake to construe them as substantive claims about the 'nature' of the I. Yet whilst these principles are illusory, Philonenko and Renaut both claim that they contain a kernel of truth. This kernel of truth will be extracted by the dialectical development of the second part of the 1794-5 *Foundations*. During this development the categories will gradually emerge, and we will finally reach a philosophically modest (non-metaphysical) conception of the relation between I and not-I which facilitates representation. This synthesis will also constitute a synthesis between realism and idealism, a synthesis that will found the recognition of other rational agents and the possibility of the intersubjective relation.

Such a reading of the 1794-5 *Foundations* is clearly far removed from the metaphysical reading. It seems to offer a plausible interpretation which secures the possibility of our recognition of, and interaction with, other rational agents. Nevertheless, it seems to me that this interpretation of the foundational principles is highly questionable. My reasons for claiming this are as follows.

Firstly, the fact that Fichte copied a phrase by Kant hardly seems to warrant the claim that he intended the three foundational principles to be dialectical. He might, alternatively, simply have been following what Kant refers to (in the *Prolegomena*) as the 'analytic' or 'regressive' method — which proceeds from known facts to their a priori conditions of possibility.³¹ He might, to use Reinholdian language, simply be regressing from 'facts of consciousness' to the conditions of the possibility of such facts. And indeed, just before introducing the principle of identity, Fichte says that he starts his reflection from a 'fact of empirical consciousness' (*eine Tatsache des empirischen Bewußtseins*) which is 'accepted by everyone' and 'admitted to be perfectly certain and established.'³² It is therefore far from evident that Fichte has Kant's 'warning' in mind.

Secondly, the quotations in which Fichte refers to the emergence of truth from error prove nothing with respect to the foundational principles. For they could equally

well refer to the *theoretical* part which is concerned to eliminate those philosophical positions which threaten to destroy the 'unity of consciousness' (*die Einheit des Bewußtseins*) established by the foundational principles.³³ The result of the theoretical part is a philosophically tenable construal of the relation between I and not-I. In this sense truth may be said to 'emerge from error'.

Thirdly, Fichte repeatedly asserts that the foundational principles are the absolutely certain, foundational principles of his system, and never explicitly relates them to Kant's Dialectic. Fichte does tell us, however, that the first foundational principle is 'the absolutely basic principle of all knowledge' and relates it to Kant's 'transcendental unity of apperception'.³⁴

Finally, we should be wary of Philonenko's claim that intellectual intuition had little philosophical significance for Fichte prior to the 'new presentation' writings. For whilst Philonenko provides a list of the occurrence of the term prior to the 1794-5 *Foundations*, this list is far from exhaustive.³⁵ As Thomas-Fogiel has pointed out, the term 'intellectual intuition' plays a central role in the *Meditations on Elementary Philosophy* of 1793, a work which many regard as the preliminary study for the 1794-5 *Foundations*.³⁶ It would therefore seem that the concept *does* have some significance for Fichte.

Despite these criticisms, however, the non-metaphysical reading of Philonenko and Renault contains much of interest. For whilst their interpretation of the foundational principles is questionable, their interpretation of the theoretical part provides much insight into Fichte's destruction of competing philosophical positions. I shall therefore draw upon certain aspects of Philonenko and Renault's interpretation in my own reading of the text. It is to this reading that I now turn.

The 1794-5 *Foundations* as a Theory of Intentionality

The interpretation of the 1794-5 *Foundations* I wish to advance turns on the claim that Fichte is attempting to provide an account of the conditions of the possibility of intentionality.³⁷ By 'intentionality' I mean the *directedness* which is a characteristic feature of consciousness; the fact that all consciousness 'is consciousness of something'. Following the 'phenomenological' conception of intentionality³⁸, the 'something' intended here, or 'intentional object' (*noema*), refers to whatever is the correlate of an act of consciousness. This correlate may be an abstract entity such as a proposition (disregarding Quine's claim that propositions are *entia non grata*³⁹), yet it may also be a concrete entity, an entity located in space and time. This 'phenomenological' conception of the intentional object is therefore far broader than the standard 'analytic' conception of the something intended as a 'proposition'.

As an interpretative hypothesis, this might strike the reader as hopelessly anachronistic. After all, a concern with intentionality as a philosophical issue is commonly held to emerge with Brentano and Husserl. Furthermore, the objection might continue, Fichte does not employ the term or its cognates. In defense, it should be noted that whilst the term is not used by Fichte, he is clearly concerned with 'directedness' as an essential characteristic of consciousness. Fichte's I and not-I play a similar role to Husserl's *noesis* and *noema*, and the frequently mentioned 'unity of consciousness' clearly stands for the intentional relationship. Fichte's concern with the directedness of consciousness is evinced by the fact that the 'crisis points' of the theoretical part of the 1794-5 *Wissenschaftslehre* all involve the threat of the unity of consciousness collapsing or of there being a 'hiatus' (*ein Hiatus*) between I and not-I.⁴⁰ The 1794-5 *Foundations* seeks to discover the fundamental conditions of the possibility of all human knowledge, from our most rarefied reflections to our most prosaic common sense beliefs. Underpinning all these types of cognition is intentionality — the directedness of consciousness to an object. Given the fundamental role of intentionality in all experience, Fichte considers it to be the proper object of the foundations of a *Wissenschaftslehre*.

The first part of the *Foundations*, in which the three fundamental principles are introduced and developed, may be seen as a reflection upon the conditions of the possibility of intentionality. For Fichte, as for Husserl, intentionality involves three elements: a subject, an object and the relationship between them. In order for 'consciousness to be consciousness of something' there must necessarily be a subject of experience — an 'I'. There must also, Fichte claims, be an intentional object towards which this I is directed — a 'not-I'. Now, if either of these conditions is asserted 'absolutely' — which really amounts to saying that it is asserted *exclusively* — the possibility of intentionality is foreclosed. Thus, it is a condition of the possibility of intentionality that subject and object are *both* posited. I and not-I are therefore *both* posited in opposition to each other. Now, this opposition is not sufficient for intentionality. For there must be a relationship between I and not-I. The possibility of this relationship is secured by the notion of limitation — I and not-I relate to each other by partially negating or 'limiting' each other. Fichte claims that there are two fundamental ways in which this limitation may take place, corresponding to two fundamental types of intentionality. The I may posit the '*not-I as limited by the I*', in which case we are dealing with 'practical' intentionality — an intentionality which seeks to transform and shape the world. This practical intentionality is considered in the third, practical, part of the 1794-5 *Foundations*. Alternatively, the I may posit '*itself as limited by the not-I*', in which case we are dealing with 'theoretical' intentionality — an intentionality which provides cognitive access to a publicly accessible, mind-

independent world.⁴¹ Fichte refers to this theoretical intentionality as 'representation' (*Vorstellung*) and tells us that the 'explanation of representation' is 'speculative [i.e. 'theoretical'] philosophy in its entirety'.⁴² 'Representation' is involved in our reflective 'theoretical knowledge' about ourselves and our world. Yet it is also involved in our commonsense, everyday view of the world. This commonsense, pre-philosophical view of the world, or '*doxa*', is presupposed by, and serves as the starting point for, our theorizing about the world. Fichte's philosophical reflection on the conditions of the possibility of representation can therefore be seen as providing what we described (in Chapter 4) as a 'justification of *doxa*'.

Representation, or theoretical intentionality, is examined in the second part of the 1794-5 *Foundations* — the Foundation of Theoretical Knowledge. This part is the part that is most relevant to the problem of intersubjectivity. For insofar as other subjects of experience are first of all objects of experience, the solution to the problem of how we come to recognize rational beings outside of us presupposes an answer to the question of how we come to know *anything* outside of us. As Philonenko notes:

if no object exists outside of me, then it will not be possible to think that other subjects exist outside of me. Others are first of all not-I. One therefore cannot avoid the problem of the object: this problem must be resolved in a way that will allow the subsequent assertion of the existence of others.⁴³

The following discussion will therefore focus on the Foundation of Theoretical Knowledge.

The Foundation of Theoretical Knowledge presents a detailed exploration of what we might call the 'principle of representation' — 'the I posits itself as determined by the not-I'. Fichte claims that two contradictory readings of this proposition are possible. The first interpretation emphasizes the apodosis of the proposition and thus interprets the proposition as stating that the I *must be determined*. This interpretation is presented in the proposition — '*the (active) not-I determines the I (which to this extent is passive)*'.⁴⁴ Insofar as this interpretation emphasises the passivity of the I and the activity of the not-I, it may be described as a 'realist' interpretation. The second interpretation emphasizes the protasis of the proposition and thus interprets the proposition as stating that the I *determines itself*. This interpretation is presented in the proposition — '*The I determines itself (through an absolute activity)*'.⁴⁵ Insofar as this interpretation emphasizes the activity of the I, it may be described as an 'idealist' interpretation.

These two competing interpretations provide the basis for the development of the Foundation of Theoretical Knowledge. Fichte will repeatedly attempt to reconcile the conflict between the idealist and realist conceptions of the theoretical relationship between the I and not-I. Each attempt at synthesis will generate a new category and

new, more sophisticated versions of idealism and realism. Beginning with the crudest, most dogmatic forms of realism and idealism, Fichte gradually progresses towards a critical 'real-idealism or ideal-realism'.⁴⁶ In what follows, I shall not follow Fichte's convoluted dialectic (which is considerably more complex than its Hegelian successor insofar as it involves *five* 'moments'), but shall simply consider Fichte's critical account of the realist and idealist positions and his attempt to provide an alternative position.

Against Realism

Fichte characterizes realism as being committed to the existence of a mind-independent not-I — a thing in itself — which actively determines the I. For the realist, the representation of a mind-independent world results from the impress of the not-I upon a purely receptive I. Fichte associates realism with the category of 'efficacy' (*Wirksamkeit*) or 'causality' (*Kausalität*).⁴⁷ This category is defined as follows:

*The not-I only has reality for the I insofar as the I is affected.*⁴⁸

This may seem a very unsatisfactory definition of causality, insofar as it is supposed to be related to realism. Indeed, it seems to beg the question in favour of idealism. Nevertheless, Fichte's point is that an *affection* or a passivity in the I is the *ratio cognoscendi* of the cause. In other words, the existence of the cause is inferred on the basis of the experienced affection. Or, to use Fichte's terminology, a passivity or affection in the I is the '*ideal ground*' (*Ideal-Grund*) of an activity of the not-I.⁴⁹ This is by no means inconsistent with the more obviously realist claim that the 'independent activity' of a mind-independent not-I is the *ratio essendi* of the effect.⁵⁰ It is by virtue of the influence of a mind-independent not-I that a passivity or affection occurs in the I. As Fichte puts it, 'an activity of the not-I that is independent of the relation and presupposed by the possibility of the latter is the real ground [*Real-Grund*] of the passivity'.⁵¹ Regardless of the peculiarity of Fichte's definition of causality, he clearly thinks that the realist is committed to the notion that representation is explained by the causal influence of a mind-independent object upon the self. And the realist thinks that no appeal need be made to the activity of a self-conscious I. For the realist, the Kantian 'I think' is redundant.

Fichte's response to the realist consists in an 'immanent' or 'internal' critique of the realist position, i.e., a critique which demonstrates that the realist cannot satisfy his own explanatory criteria. What Fichte shows is that the realist cannot 'explain what he wants to explain' on realist grounds alone. In order to give a satisfactory explanation of representation, the realist is forced to acknowledge the central assumption of the very system he rejects. He is forced, in other words, to acknowledge the necessity of a self-

conscious subject of experience in explaining our representation of an apparently mind-independent world. How does Fichte show this?

Fichte begins with the realist assumption that the only explanation of representation is the causal influence of an active not-I upon a passive subject of experience. The subject of experience is a mere *tabula rasa* upon which the not-I leaves an imprint. Fichte then asks us to imagine the relation between the not-I and the I at two different times — A and B. At moment A the not-I does not act upon the I. The I contains only reality; there is no negation in it. Consequently, in accordance with the principle of causality, no reality is ascribed to the not-I. At moment B the not-I acts upon the I with three degrees of activity. Three degrees of reality are abolished in the I and three degrees of negation are posited in their place. According to the realist this state of affairs should be sufficient for the subject to experience the not-I. Nevertheless, Fichte claims that the realist is quite mistaken:

However, the I is purely passive here. The degrees of negation *are* doubtless really *posited* — but *for an intelligent being* external to the I, who would observe and judge the I and not-I in this action according to the rule of reciprocal determination — not at all for the I itself. In order for this to occur, the I would have to be able to compare its state at moment A with its state at moment B and distinguish the different quanta of its activity; and how this is possible has not yet been shown. In the present case the I would undoubtedly be limited, but it would not be conscious of its limitation. Or, to express this in the terms of our proposition, the I would indeed be *determined*; but it would not *posit itself as determined*. Only a being external to it could posit it as determined.⁵²

Fichte's point here can be explained as follows. According to the realist, the causal influence of a mind-independent not-I or thing in itself upon a passive I is sufficient to explain the representation of an apparently mind-independent object. However, Fichte claims that the realist's account is deeply flawed. For if the I is really passive it may indeed be determined by the not-I, the not-I may indeed exert an influence upon it, but it will not be aware of this influence *as an influence*. It could only be aware of being determined or influenced by something external, if it could self-consciously compare its state prior to the influence (its state at moment A) with its state after the influence (its state at moment B). Yet such a self-conscious act of comparison would imply an *activity* on the part of the I. It would require that an active self-relation or, an 'I think', could accompany all the I's representations. Yet this is precisely what the realist rejects.

Fichte is aware that the realist could respond that *he* observes the fact that the causal impact of the not-I creates a representation in the I. Nevertheless, Fichte would ask the realist, *qua* 'external observer', to explain how he acquired *this* representation. The realist, if consistent, would presumably reply that he experienced it by virtue of the causal impact of a not-I (the observed state of affairs) upon his totally passive cognitive faculties. However, Fichte would simply repeat his argument that if the I does not



possess the capacity to compare its mental states prior to and after the causal impact, it cannot be aware of itself as affected. Unless the realist can refute Fichte's argument, he is faced with the following dilemma: he can either accept Fichte's claim that self-consciousness is a necessary condition of representation or call upon another observer to testify that his representation was caused by a mind-independent not-I. If he chooses the former, he is forced to relinquish his realism. If he chooses the latter, infinite regress looms. Luc Ferry summarizes as follows:

Here, we clearly enter into a process of infinite regress: if it is true that the activity of the not-I can only be posited through a consciousness the I has of its *affection*, it is necessary that this affection *is perceived by the affected I itself*: because if it is perceived by an external observer, the same question is immediately raised for him: how was he able to perceive himself as affected by what he observed?⁵³

Now this active self-relation, this capacity to be aware of oneself as the identical subject of diverse mental states, is all that Fichte means by 'intellectual intuition' (*intellektuelle Anschauung*). By intellectual intuition Fichte does *not* mean, as Schelling and Hegel maintain, Kant's hypothetical Intuitive Intellect which produces reality in its entirety. What Fichte means by intellectual intuition is a direct non-conceptual awareness of oneself as an active or spontaneous subject of experience. Such an awareness is close to Kant's transcendental unity of apperception — the 'I think' which must be able to 'accompany all my representations'. In order to get a clear idea of what Fichte means by intellectual intuition, a brief discussion of its Kantian counterpart will be helpful.

Following Pippin⁵⁴, we can distinguish between three interpretations of Kant's claim that 'it must be possible for the 'I think' to accompany all my representations'⁵⁵: the 'Cartesian Interpretation', the 'Necessity of a Possibility Interpretation' and the 'Implicit Reflexivity Interpretation'. The 'Cartesian Interpretation' holds that Kant is claiming that all consciousness actually *is* self-consciousness, that to be conscious is to be explicitly aware of one's mental states. On this reading, all my representations are, as a matter of fact, accompanied by an explicit self-consciousness — an explicit 'I think'. The 'Necessity of a Possibility Interpretation' is advanced by Henry Allison, amongst others.⁵⁶ Allison holds that Kant is claiming that a necessary condition of experience is the *possibility* of my being explicitly aware of my ownership of my representations. It is therefore not necessary that I am actually self-consciously aware that my representations are mine, it is simply necessary that I *can* be so aware. The third interpretation, the 'Implicit Reflexivity Interpretation', is advocated by Pippin himself. This interpretation holds that Kant is maintaining that the 'I think' accompanies *all* my representations. It differs from the 'Cartesian Interpretation', however, in claiming that this self-awareness is *not explicit*. It is rather an *implicit reflexivity*, an

implicit awareness that I am doing such and such. Pippin claims that such an *implicit reflexivity* is a condition of all conscious intending, because without it I would not be intending anything at all. In order to intend something in a certain way, I must implicitly construe myself to be intending it in a certain way. As Pippin puts it:

My judging that-P is not a judging of mine, unless I [implicitly] take myself to be *judging*, and not, say, entertaining the possibility that-P.⁵⁷

In perceiving something, e.g. a tree, I am implicitly aware that I am perceiving, not imagining a tree; and I am also implicitly aware that my intentional act (perceiving) can be veridical or non-veridical. Pippin also provides the example of rule-following:

I can "consciously follow" a rule without "always consciously applying" a rule. This must be possible if any rule following that is not an explicit constant application is to be distinguished, as it should, from behavior that ought to be explained by reference to natural laws.⁵⁸

Pippin's notion of implicit reflexivity may be further clarified with the example (adapted from Sartre⁵⁹) of writing a letter. Writing a letter is not accompanied by second-order judgements such as 'I am writing a letter, now I am using a metaphor, now I am writing a full stop'. But it does seem that I must, at some level, be aware that I am following the rules and conventions of letter writing. If not, I would not be engaged in the practice of letter writing at all, my action would — as Kant puts it — be 'nothing for me.' Now, this awareness is immediate, non-conceptual and non-inferential⁶⁰ and is, most importantly, implicit. Yet it can provide the basis for an explicit awareness. If a friend entered the room and asked: 'What are you doing?' I would be immediately able to say 'I am writing a letter', and if he asked exactly what I am writing, I could say 'a polite letter of acceptance'. In this way my *implicit* awareness or self-construal of what I am doing is made explicit. But, and this is important, my reply to my friend is also accompanied by an implicit awareness of what I am doing, i.e., an awareness that I am providing an explanation (as opposed to telling a joke). And this implicit awareness of what I am doing, as well as the implicit rules I am following, can in turn be made explicit. If a third person walks into the room and asks me what I am doing I can say 'explaining myself to Jack.'

It seems that my implicitly taking a stand on what I am doing, or my implicit self-construal, cannot be explained in realist terms, as caused by the objects of cognition. It would be hard, for example, to explain it in terms of the way in which objects affect us. They would simply cause us to act in a certain way, rather than causing us to be implicitly aware that we are acting in a certain way. This activity therefore cannot be explained by the causal efficacy of objects on a passive agent. Insofar as it is the

condition of the possibility of my having any representations, it cannot be caused by these representations. Kant therefore describes it as 'spontaneous'.

How, then, does all this relate to Fichte's conception of intellectual intuition? The answer to this question is that Fichte's talk of intellectual intuition should be read as an extension of the implicit reflexivity thesis, an extension which places considerable emphasis on the spontaneous, uncaused nature of this reflexivity. By describing this spontaneous implicit reflexivity as 'intellectual intuition', Fichte is highlighting two of its essential characteristics: firstly, that it is intuitive, by which Fichte means that it is immediate, non-conceptual and non-inferential and, secondly, that it is an awareness of an intellectual activity rather than of a sensible object. This understanding of Fichte's conception of intellectual intuition is supported by the second *Introduction* of 1797. There, Fichte says that intellectual intuition is immediate and non-conceptual (in contrast with explicit second-order judgements), and is involved in all conscious intending:

To be sure, anyone can be shown, within his own acknowledged experience, that this intellectual intuition is present in every moment of his consciousness. I cannot take a single step, I cannot move my hand or foot, without the intellectual intuition of my self-consciousness in these actions. It is only through such an intuition that I know that I do this. Only in this way am I able to distinguish my own acting (and, within this acting, my own self) from the encountered object of this acting. Every person who ascribes an activity to himself appeals to this intuition.⁶¹

In the 1794 essay *Concerning the Concept of the Wissenschaftslehre*, Fichte makes a similar claim about the first principle with which the *Wissenschaftslehre* begins — a principle which expresses the absolute, spontaneous self-positing activity of the I:

It provides the foundation for all certainty; that is, everything that is certain is so because *it* is certain, and if *it* is not certain, then nothing is. It provides the foundation for all knowledge; that is, if one has any knowledge at all then one knows what this principle asserts. One knows it immediately as soon as one knows anything at all. It accompanies all knowledge. It is contained within all knowledge. It is presupposed by all knowledge.⁶²

Fichte's notion of intellectual intuition is therefore relatively 'modest' and does not refer to the Promethean activity of an 'Absolute Subject'. Indeed, as Neuhouser has pointed out⁶³, it is closer to Sartre's conception of a 'non-thetic' self-consciousness which is presupposed by, and serves as the condition of the possibility for, explicit 'thetic' self-consciousness.⁶⁴

Fichte's immanent critique of realism therefore establishes the necessity of self-consciousness, *qua* implicit reflexivity, in all representation. If the causal affection of a thing in itself is to be cognitively relevant to the affected subject, she must implicitly construe herself as being affected. Otherwise, the affection would be 'nothing' for her. With this point in mind, let us now turn to Fichte's critique of idealism.

Against Idealism

The fact that Fichte provides a critique of idealism may strike the reader as odd. For as we saw in our discussion of the concept of a *Wissenschaftslehre* (chapter 4), Fichte defends idealism in opposition to dogmatism. Why, then, does Fichte attack idealism in the 1794-5 *Foundations*? The answer to this question is that Fichte is attacking idealism insofar as it is a form of transcendental realism or dogmatism, i.e., a sort of idealism which conceives of the subject as a transcendent entity which exists beyond the bounds of possible experience. Such an idealism regards the I as a substance and experience as an accident of this substance. The I, for this idealism, is all there is and reality is merely a manifestation of the I's activity. This idealism is, in other words, the very 'subjective idealism' of which Fichte has so often been accused. As we will see, Fichte rejects this idealism in favour of two alternatives. In the theoretical part of the 1794-5 *Foundations*, he rejects it in favour of a modest *critical* idealism or 'real-idealism or ideal-realism'. In the practical part of the 1794-5 *Foundations*, he rejects it in favour of a *practical* idealism which presents the absolute I as the *focus imaginarius* of action. It is this practical 'idealism' which Fichte opposes to dogmatism in the 1797 *Introductions*.

Fichte characterizes idealism as being committed to the existence of a transcendent I which actively produces experience in its entirety. The idealist accepts that representation involves a 'feeling of necessity', a feeling of being constrained by the way things are. The idealist therefore accepts that representation involves a certain 'passivity' in the I. Yet she flatly refuses to explain this passivity as the result of the causal influence of a mind-independent not-I. Instead, she seeks to explain this passivity as the result of the I's activity: passivity arises because the I freely limits or cancels its own activity. Here passivity is not, as it is for the realist, qualitatively opposed to the I's activity. Passivity is simply quantitatively opposed to the I's activity — it is, Fichte tells us, a 'lesser quantum' of the I's activity. The I actively produces this lesser quantum by limiting its own activity.⁶⁵ Fichte associates idealism with the category of substantiality because in this category 'passivity is determined by activity'.⁶⁶ The idealist explains representation by claiming that the active I is substance and representation is its accident.⁶⁷

Fichte's characterization of the idealist position presupposes familiarity with a solution to a problem which plagued post-Kantian idealism — the problem of the thing in itself.⁶⁸ For Fichte's discussion makes tacit reference to Solomon Maimon's rejection of the thing in itself.⁶⁹ Maimon had sought to overcome Kant's problematic dualism of sensibility and understanding with the notion of an infinite spontaneous intellect.⁷⁰ This intellect, Maimon claimed, — although he was not always consistent on this point⁷¹ — constituted experience in its entirety. Having postulated this infinite intellect, Maimon

had to deal with the problem that the passivity of experience — the fact that we are constrained to represent things in a certain way — seems to point to the influence of a mind-independent thing in itself. Maimon sought to resolve this problem by drawing upon Leibniz's Law (or Principle) of Continuity (*Lex Continuitatis, principe de continuité*).⁷² This law, which is a corollary of the Principle of Perfection, states that there are no discontinuities or 'leaps' in the order of things.⁷³ By this Leibniz means that there are no discrete states but merely an infinite series of states, each of which differs infinitesimally from its neighbour. Whilst applications of this law are to be found throughout Leibniz's philosophy, two are particularly relevant to Maimon's project. The first is Leibniz's psychological doctrine of *petites perceptions*, which seeks to secure the continuity of mental life by postulating infinitesimally small perceptions below the threshold of consciousness.⁷⁴ It is on the basis of this doctrine that Leibniz can claim that joy is an infinitesimally small amount of sorrow.⁷⁵ The second application is to be found in Leibniz's dynamics in which he claims that rest is an infinitesimally small amount of motion.⁷⁶

Leibniz's Law of Continuity provided Maimon with the means to eliminate the thing in itself. For in order to do this he had to explain the passivity experienced in representation without recourse to a mind-independent thing in itself.⁷⁷ Indeed, given Maimon's commitment to an infinite understanding, he had to explain this passivity as a product of this very understanding. Leibniz's Law of Continuity allowed him to do just this. Maimon first reduced the notion of a thing in itself or noumenon to the passivity experienced in representation. Then, drawing upon the terminology of infinitesimal calculus, he claimed that passivity is a 'differential' — an infinitely small quantity of the infinite activity of the understanding.⁷⁸ Maimon claimed that, insofar as it is meaningful to talk of things in themselves or noumena, they are simply 'differentials' of sensible objects — the infinitely small quanta of activity from which objects (the 'integrals') are composed:

These differentials of objects are what we call noumena, but the objects themselves which result from them are phenomena [...] These noumena are ideas of reason which serve as principles of the explanation of the genesis of objects according to certain rules of the understanding.⁷⁹

Noumena are, to borrow Leibniz's simile, like the noises of individual waves which, although barely audible severally, together contribute to the 'roaring noise of the sea'.⁸⁰

Maimon's elimination of the thing in itself underlies Fichte's model of idealism. Fichte's critique of idealism will therefore undermine Maimon's Leibnizian

solution to the problem of the thing in itself. The essentials of Fichte's critique of idealism are provided in the following paragraph:

Or posit, as in the second case, according to the simple concept of substantiality, that the I should have the faculty of arbitrarily and absolutely positing in itself a lesser quantum of reality, independently of any action of the not-I; this presupposition is that of transcendent idealism and, in particular, the idealism of the pre-established harmony, which is an idealism of this type. Let us abstract from the fact that such a presupposition already contradicts the absolute first principle [i.e., the principle established in §1]. Also grant the I the power of comparing this lesser quantity with the absolute totality and of measuring the lesser quantity in relation to the absolute totality. Posit, in accordance with this presupposition, the I at moment A with a reduced activity of two degrees and at moment B with a reduced activity of three degrees. We can understand very well how the I can judge itself to be limited at each of the two moments and as more limited at moment B than at moment A; but we do not at all see how it could relate this limitation to something in the not-I as its cause. The I should instead consider itself as the cause of this limitation. Or, to express this in the very terms of our proposition: the I undoubtedly really posits itself as determined, but not as determined *by the not-I* (The dogmatic idealist doubtless denies that one has the right to carry out this relating to a not-I and to this extent he is consistent: however, he cannot deny that this relating is a fact, and it has not yet occurred to anyone to do so. Consequently, he must at the very least explain this fact which he acknowledges, irrespective of its well-foundedness. Nevertheless, he cannot provide this explanation, given his presupposition, and his philosophy is therefore incomplete. Moreover, if he accepts the existence of things outside us, as the system of pre-established harmony does, amongst some Leibnizens, he is even more inconsistent.)⁸¹

Fichte's criticism can be explained as follows. The starting point for explanations of representation is the 'phenomenology' (in the sense of the term prevalent within 'analytic' philosophy) or the 'what it is like' of representation. This phenomenology has two aspects. Firstly, it involves a feeling of passivity, a feeling of constraint. Secondly, it involves the relating of this feeling to something 'outside' of us. In other words, we don't simply experience passivity; we also relate this passivity to something 'independent' of us, something 'not-I'. Now, the idealist rejects the realist's appeal to a mind-independent reality and seeks to explain representation by appealing to the I alone. She therefore explains the feeling of passivity as a product of the I self-consciously limiting its activity and comparing the activity after the limitation (the activity at moment B) with the activity prior to the limitation (the activity at moment A). *If* this explanation is successful, the idealist has a clear advantage over the realist who cannot explain the fact that we experience this passivity. Yet whilst the idealist can apparently explain our experience of passivity she cannot, Fichte insists, explain the fact that we relate this passivity to something 'not-I'. The idealist needs to provide an account of why we ascribe this passivity to something apparently mind-independent and, absentsuch an account, her explanation is inadequate. Fichte points out that the idealist cannot provide such an account in idealist terms — given her 'own presuppositions'. She is

therefore faced with the following dilemma: she must either admit defeat or appeal to the realist's mind-independent thing in itself as the cause of the limitation.

Fichte's criticism does not stop there, however. For he thinks that the idealist cannot even provide a satisfactory explanation of the passivity experienced in representation. This is because the hypothesized self-limitation of the I seems, as Fichte puts it, 'arbitrary' (*willkürlich*) and inexplicable. For why, indeed, would an *absolute, infinite* I 'choose' to diminish its activity? And why should it limit itself in such a way as to give rise to *this* world of phenomena?⁸² As Fichte puts it, 'In this system one cannot give any ground for the limitation of reality in the I (i.e., of the affection whereby a representation arises). Every inquiry into this topic is made radically impossible'. Idealism is therefore 'incomplete' 'because it does not explain everything which ought to be explained'.⁸³

Idealism cannot satisfactorily explain, in idealistic terms, why the I's self-limitation is related to something outside the I. It presupposes this relating to something external as a fact. But, insofar as the only ground for this relation could be the causal impact of a mind-independent not-I, the idealist presupposes, and tacitly accepts, the truth of realism. Realism is incomplete because it cannot explain, in realist terms, the I's capacity to accompany all its representations and to compare them. Yet, if the I is to grasp its activity as limited by the causal impact of a not-I, it must possess this capacity. The realist therefore presupposes, and tacitly accepts, the truth of idealism. Idealism and realism presuppose one another and are, Fichte claims, locked in a circle. There is therefore a complementarity between these two ostensibly opposed modes of explanation.

Both idealism and realism contain a kernel of truth, but present it one-sidedly as the whole truth. Idealism starts with what Fichte calls the 'infinitude' (*Unendlichkeit*) of the I, the fact that the I is the spontaneous, active subject of experience. Realism starts with what Fichte calls the 'finitude' (*Endlichkeit*) of the I, the fact that the I is limited and constrained by something 'external' to it. The conflict between realist and idealist explanations of representation can therefore be glossed as a conflict between accounts of the relationship between the infinitude and finitude of the I.⁸⁴ It can also, following our interpretation, be glossed as a conflict between competing accounts of intentionality. Realism, as Fichte understands it, regards *noesis* and *noema* as discrete independently existing entities that are linked by a causal relation. For the realist, the *noesis* is dependent upon, and caused by, the *noema*. For idealism, the *noema* is entirely constituted by the *noetic* acts of consciousness. All there is, for the idealist, is consciousness and its 'accomplishments' (*Leistungen*).

Fichte claims that this conflict of complementary positions is irreconcilable and interminable. Realism and idealism are locked in a futile struggle in which each

fervently rejects the other whilst surreptitiously appealing to the other's principle of explanation. Nevertheless, there are two possible ways of handling this conflict.

The first way tries to resolve the conflict in favour of idealism and therefore asserts the primacy of the I. But it only asserts the primacy of the I as a *regulative idea* — as an unattainable goal towards which the finite I must endlessly strive. This idealism is therefore a 'practical idealism' which 'does not determine what *is*, but what *ought* to be'. And what *ought* to be the case is that the I 'contain in itself the foundation of the existence of the not-I which diminishes the activity of the intellectual I'. As this 'infinite idea' cannot be realized, or even fully grasped, the 'knot of contradiction is not so much untied as projected into infinity'.⁸⁵ This practical idealism is closely related to Fichte's infamous doctrine of 'striving' (*Streben*), mentioned in our discussion of the *Lectures*, which claims that the finite, empirical subject of experience must endlessly strive to become the absolute, pure I. This doctrine — and hence the 'solution' to the conflict between realism and idealism — is fully articulated in the third, 'practical' part of the 1794-5 *Foundations* (which treats the proposition 'The I posits the not-I as limited by the I'). Insofar as our concern is with the theoretical part, we shall leave this solution to one side.

The second way to resolve the conflict between realism and idealism is to attempt to unite them in a third position which Fichte refers to as 'a real-idealism or an ideal-realism' or, more simply, 'critical idealism'.⁸⁶ Given the significance of this 'solution' for Fichte's account of intersubjectivity, a brief discussion of it is necessary.

Real-Idealism or Ideal-Realism

Fichte formulates his solution in response to the law of the 'mediacy of positing' (*Mittelbarkeit des Setzens*), the law that the I can only posit itself in relation to what is posited in opposition to an I — a not-I, and that the I can only posit a not-I in relation to an I. Fichte expresses this law with the chiasmus '*no subject, no object; no object, no subject*'.⁸⁷ Given this law, if the I is to posit itself (which, according to §1 of the 1794-5 *Foundations*, it must), it must posit itself as limited or finite, as constrained by something not-I (which must be posited in relation to an I). The I therefore posits itself as finite, as constrained. But what is the ground of this constraint? Fichte rejects the notion, characteristic of an advanced form of realism ('quantitative realism'), that this limitation is to be explained by a *real* limitation that is present *in* the I 'without any contribution on the part of the I as such'.⁸⁸ Such a realism, Fichte claims, fails to explain how this *real* limitation is ideal, is *for* the I.⁸⁹ Fichte also rejects the notion, characteristic of an advanced form of idealism ('quantitative idealism'), that this constraint is a law of the mind. For this advanced idealism suffers from the same flaw as the primitive form of idealism discussed earlier, namely, it fails to explain *why* an

infinite I would choose to limit itself. Indeed why, Fichte asks, would the I posit something objective?⁹⁰ Fichte's answer to this question, which is crucial to his real-idealism or ideal-realism, is provided as follows:

The objective to be excluded has no need at all to be present; all that is required—if I may so put it—is the presence of a check [*Anstoß*] on the I. That is, for some reason that lies merely outside the I's activity, the subjective must be extensible no further. Such an impossibility of further extension would then delimit—the mere interplay we have described, or the mere incursion; it would not set bounds to the activity of the I; but would give it the task [*Aufgabe*] of setting bounds to itself. But all delimitation occurs through an opposite; hence the I, simply to do justice to this task, would have to oppose something objective to the subjective that calls for limitation, and then synthetically unite them both, as has just been shown; and thus the entire representation could then be derived.⁹¹

As this passage indicates, the notion of a 'check' or *Anstoß* to the I's activity is at the heart of Fichte's solution to the conflict between realism and idealism. It is therefore crucial to understand what the term *Anstoß* means.

As Breazeale has pointed out⁹², the term *Anstoß* had a variety of meanings in late 18th century German. It was an ambiguous term. In one of its senses, *Anstoß* designated an 'obstacle' or 'hindrance' (*Hindernis* or *Hemmung*). This sense of limitation is captured by the standard English translation of *Anstoß* as 'check'. But this translation does not capture the full sense of the term. For *Anstoß* also designated an 'impulse', 'impetus' or 'stimulus' (*Anlaß*, *Impuls*, *Antrieb*, or *Anregung*). It was in this latter sense that *Anstoß* was used in the rational mechanics of the period to designate the original impulse that set a physical system in motion.⁹³ Now Fichte was undoubtedly familiar with all these senses of the term, and intended it to suggest *both* limitation and stimulation. It would therefore be wise to drop the English translation and use the German term instead.

The *Anstoß* serves to define the 'realistic' aspect of Fichte's real-idealism or ideal-realism. It accounts for the I's self-limitation, its positing of itself as opposed to an objective realm, a not-I. The *Anstoß* is a shock, a hindrance to the I's activity. It is an unintelligible check, which is neither explained by, nor reducible to, the I's activity. It signifies an 'impossibility of further extension' of the I's activity. However, this is not to say that the I passively receives the *Anstoß* as a limit. Fichte claims that the *Anstoß* does not limit the I so much as give 'it the task [*Aufgabe*] of limiting itself'. The *Anstoß* must be *posited* by the I as a limit, which is to say that the I must limit its own infinite activity upon encountering the *Anstoß*. Upon encountering this unintelligible shock, the I is led to limit its activity by positing an objective realm, a not-I, and by positing itself as engaged in this realm. In this way the I is led to represent an external world. To put it metaphorically, the I attempts to 'explain' this unintelligible shock to its activity by positing itself as limited by an objective sphere.

This is the *Anstoß* as presented in the 1794-5 *Foundations*. It designates a contingent and inexplicable shock to the I's activity, and to that extent may be described as 'realistic'. Fichte's Critical idealism consists in combining this realistic element of total alterity with the idealist emphasis on the role of subjectivity in experience. Fichte claims that the *Anstoß* could not be a check or hindrance to the I, unless the I strove to extend its spontaneous activity to infinity.⁹⁴ It must be the case, Fichte argues, that 'the activity concerned, in and by itself, and left to its own devices, reaches out into the unbounded, the indeterminate and indeterminable, that is, into the infinite'. As Fichte points out, if this were not the case, it would be impossible to tell whether limits to the I's activity were provoked by an *Anstoß* or were merely its own natural limits.⁹⁵ It is in this sense, and in this sense alone, that the *Anstoß* is 'conditional upon the activity of the I'.⁹⁶ Yet if the *Anstoß* is conditional upon the infinite activity of the I, it is also, Fichte claims, the condition of the I's infinite activity. This claim turns upon the notion that the concepts of infinitude (*Unendlichkeit*) and finitude (*Endlichkeit*) are defined in terms of one another. Finitude, Fichte suggests, is only meaningful in relation to the notion of infinitude. Finitude or boundedness is, quite literally, the non-infinite. Conversely, the notion of infinitude or unboundedness is only meaningful if one can conceive of finitude or boundedness. Infinitude is, quite literally, the absence of bounds or the non-finite. Consequently, the infinitude of the I is conditional upon its limitation or finitude, which is conditional upon the presence of an *Anstoß*. But the presence of an *Anstoß* is, as we have seen, conditional upon the I's infinite activity. The I's infinite activity and the *Anstoß* therefore mutually condition one other — without the infinitude of the I there would be no *Anstoß*. Yet without the *Anstoß* there would be no infinitude (because the *Anstoß* is the ground of the I's self-limitation).

Now the I continually oscillates between the assertion of itself as infinite and, in response to an unintelligible *Anstoß*, the assertion of itself as finite. This oscillation is performed by the 'productive imagination' (*produktive Einbildungskraft*) which 'hovers' or 'oscillates' (*schwebt*) between the I's infinitude and its finitude — between the 'ideal' and 'real' moments of consciousness.⁹⁷

Fichte's real-idealism or ideal-realism embraces this interminable oscillation between the infinitude of the I and its finitude. It accepts that representation involves an 'ideal' moment in which the I asserts its 'spontaneity'. Yet it also accepts that representation involves a 'real' moment in which the I limits itself in response to an encounter with something radically *other* than itself, an unintelligible, foreign *Anstoß*. It further accepts that the I, thanks to the power of the imagination, endlessly oscillates between these two moments. Realism and idealism both seek to halt the oscillation between these moments and to assert one of them as the foundation of representation. In so doing, they encounter insuperable difficulties. Real-idealism or ideal-realism, by

contrast, realizes that this oscillation itself is the condition of the possibility of representation or theoretical intentionality.⁹⁸ For without it, we would have 'no representations at all'.⁹⁹

This then, is Fichte's 'solution' to the conflict between realism and idealism. It introduces the notion of an *Anstoß* to the I's infinite activity which causes the I to limit itself by positing an objective realm, a not-I. And it also introduces the notion of the productive imagination as the power which endlessly oscillates between the I's infinite and finite activities.

Now it must be admitted that the theoretical part of the 1794-5 *Foundations* tells us very little about the *Anstoß*. It tells us what its function is — its role in the genesis of representation — and that it is something that is unintelligible and foreign to consciousness. Yet it does not provide us with any concrete examples of what this 'check' is like. The only help provided in the 1794-5 text is provided in the practical part, where the *Anstoß* is described as an original 'feeling' (*Gefühl*) encountered by the I. Here, the I infinitely strives to overcome this feeling and to attain genuine autonomy. It is within this context that Fichte provides concrete examples of what the content of the *Anstoß* might be. This content is characterized as 'sensible impressions', 'sweet [...] bitter, red [...] yellow, etc.'¹⁰⁰ A similar characterization is provided in the second *Introduction* of 1797.¹⁰¹ These characterizations remain strictly within the bounds of theoretical philosophy — they are simply the qualitative aspects of experience which we would today refer to as 'qualia' or 'raw feels'. Nevertheless, Fichte does note that we experience other 'immediate feelings' of a more 'practical' nature, feelings of obligation and an awareness of the freedom of others. We are, Fichte claims, immediately aware of what we *must* do, and of what we *must* respect. Other rational beings are given to us in experience, and their freedom 'checks' our activity. It is this insight that will provide the basis for Fichte's discussion of intersubjectivity in the 1796-7 *Foundations of Natural Right*. However, before turning to a discussion of this work two further aspects of the 1794-5 *Foundations* merit consideration.

The *Foundations* as Pragmatic History

In chapter 4 we saw that Fichte intended the *Wissenschaftslehre* to provide a 'pragmatic history' — an account of the genesis and development of humanity's capacity for autonomy. Such an account was to serve an educative function. It was to instruct humanity how to become rational and autonomous.

The notion of a pragmatic history reappears in the 1794-5 *Foundations*, Fichte telling us, towards the end of the theoretical part, that 'the *Wissenschaftslehre* is to be a pragmatic history of the human mind', and that the preceding discussion has merely facilitated access to this history.¹⁰² This history is provided in the brief, yet crucial,

'Deduction of Representation' (*Deduktion der Vorstellung*) which completes the theoretical part of the 1794-5 *Foundations*.¹⁰³ Having derived the productive imagination and the *Anstoß* from an exploration of the proposition 'The I posits itself as limited by the not-I', Fichte now proceeds to consider the way in which this account might be transmitted to the non-philosophical or ordinary consciousness. Fichte argues that the non-philosophical consciousness is, under the supervision of the philosopher, to traverse the series in reverse, proceeding from sensation to reason. Through repeated reflection upon its initial encounter with the *Anstoß* it is to construct its world, and, having done so, grasp its own autonomy and spontaneity — realizing that its activity underlies its representation of an apparently mind-independent world. The transcendental philosopher does not direct this process, nor coerce the non-philosophical consciousness into accepting the truths of transcendental idealism. She is merely a silent guide, pointing out the activity that occurs.

Now this process is significant in several respects. It is the means whereby the non-philosophical consciousness gains access to the standpoint of transcendental philosophy. For having attained reason, it can now begin to study the 1794-5 *Foundations*, grasping the abstract foundational principles with which it begins and its complex discussion of theoretical knowledge. It can therefore explore the foundations and limits of theoretical reason. Yet it can also — and this is the crucial point — proceed to the practical part of the work, the exploration of the foundations of practical knowledge. It can, in other words, grasp the necessity of acting in accordance with a self-given rational law — the necessity of acting in accordance with reason. The Deduction of Representation is therefore the *means* whereby the natural consciousness realizes its moral vocation. This is its truly 'pragmatic' aspect.

But what of the relation between the non-philosophical consciousness and the transcendental philosopher who 'calmly follow[s] the course of events'?¹⁰⁴ The role of the philosopher calls to mind works such as Dante's *Divine Comedy* (in which Virgil guides Dante through hell) and Condillac's *Treatise on Sensations* (in which the philosopher observes the development of the statue).¹⁰⁵ Yet most importantly it evokes Rousseau's *Émile*, the transcendental philosopher's unobtrusive supervision of the non-philosophical consciousness constituting a type of 'negative education'. The philosopher has initiated the process (by pointing out the *Anstoß*), and observes this process. Yet the non-philosophical consciousness is unaware of any education taking place.

An interesting implication of this process is that the non-philosophical consciousness may, having reached the standpoint of transcendental philosophy, communicate this knowledge to another non-philosophical consciousness. In other words the tutee can become the tutor, training another tutee. And this new tutee can, in

turn, become tutor, training another tutee to take her place, who can in turn train another tutee, *ad infinitum*. The Deduction of Representation therefore suggests an infinite educative process. This, of course, implies that the tutee must become aware that she has been educated. She must, in other words, be able to *recognize* that another free being has educated her. Now, whilst I do not think that such a relationship is *actually* present in the Deduction of Representation, the conditions of the possibility of such a relation are established. For towards the end of the process the non-philosophical consciousness comes to *think* the 'inner activity of the object'¹⁰⁶ an activity that *could* be the free activity of another rational being.¹⁰⁷

Against Jacobi

The 1794-5 *Foundations* therefore provides the conditions of the possibility of recognizing other rational beings. Fichte himself indicates this by providing an alternative formulation of the law of the mediacy of positing (*no subject, no object; no object, no subject*) in 'more common language' (*gemeinerer Sprache*) — 'No Thou, no I; No I, no Thou' (*Kein Du, kein Ich; kein Ich, kein Du*).¹⁰⁸

Now this formulation is of considerable interest. For it seems to refer to Jacobi's claim that 'without the *Thou*, the *I* is impossible'. This suggests that Fichte's formulation can be interpreted as a response to Jacobi's claim that transcendental idealism is condemned to speculative egoism. So interpreted, Fichte is pointing to the fact that he has provided a transcendental justification of the common-sense view of the world (or *doxa*). This justification consists in the 'deduction' of a radical alterity (the *Anstoß*) as a condition of the possibility of subjectivity. Fichte can therefore agree, on transcendental idealist grounds, with Jacobi's claim that the *Thou* is a condition of the possibility of the *I*. Yet, as the chiasmatic construction of his formulation indicates, Fichte thinks that Jacobi's direct realism is inadequate; it must be supplemented with an idealist emphasis on the active role of the *I* in experience — '*no I, no Thou*'. If this reading is correct, Fichte takes himself to have given a definitive response to Jacobi's objection.

This concludes our discussion of the 1794-5 *Foundations of the Entire Wissenschaftslehre*. We have seen that the conception of idealism developed in this work is not, as the 'metaphysical' interpretation would have us believe, a 'subjective idealism' premised upon the claim that a Promethean 'absolute subject' produces reality in its entirety. The conception of idealism advocated is, rather, a thoroughly *critical* conception of idealism as 'real idealism or ideal realism', the realistic aspect of which is the doctrine of an unintelligible *Anstoß* to the *I*'s activity. The irreducible 'alterity' or 'otherness' of this *Anstoß* secures a space, so to speak, for the existence of another rational being and consequently lays the foundations for a theory of

intersubjectivity. This theory receives its fullest expression in the 1796-7 *Foundations of Natural Right*. The rest of this thesis is devoted to a discussion of this work.

NOTES

- ¹ The subtitle to the 1794-5 *Foundations* describes it as a 'manuscript for his hearers (*als Handschrift für seine Zuhörer*)'. SW, I, pp. 86-7.
- ² OCCP, p. 15. SK, p. 91. SW, I, p. 89.
- ³ Druet, 1977, pp. 33-4.
- ⁴ OCCP, pp. 14-15. SK, p. 91. SW, I, p. 88.
- ⁵ The term 'positing' (*Setzen*) is never explicitly defined by Fichte. Nevertheless, as Pinkard helpfully points out, it was frequently used in logic books of the time to denote the act of asserting a proposition. It can, Pinkard claims, be loosely rendered as attaching a 'that' clause to a proposition. It also possesses meanings associated with the English 'posit', such as to 'postulate' or 'put forward for discussion'. Pinkard, 2002, p. 113.
- ⁶ OCCP, p. 22. SK, p. 99. SW, I, p. 98.
- ⁷ OCCP, p. 25. SK, p. 103. SW, I, p. 103.
- ⁸ OCCP, p. 29. SK, p. 108. SW, I, p. 109.
- ⁹ OCCP, p. 30. SK, p. 110. SW, I, p. 110.
- ¹⁰ OCCP, p. 40-1. SK, p. 122. SW, I, pp. 125-6.
- ¹¹ OCCP, p. 135. SK, p. 233. SW, I, p. 264.
- ¹² OCCP, p. 41. SK, p. 123. SW, p. 126.
- ¹³ Renaut, 1986, p. 36.
- ¹⁴ Alternative non-metaphysical readings are provided by Martin, Neuhouser, Pippin and Pinkard.
- ¹⁵ This essay is translated in Schelling, 1980, pp. 63-129. I have modified Marti's translation of the title which translates *unbedingt* as 'unconditional'. Here I am simply following the convention established by Bowie. It should be noted that neither 'absolute' nor 'unconditional' really capture the full meaning of the German *unbedingt* which, quite literally means, 'unthinged.' § 3. Schelling plays on the full meaning of this term when he notes that the notion of an absolute not-I, an absolute thing (*ein unbedingtes Ding*) is utterly contradictory. See p. 77.
- ¹⁶ Schelling, 1980, p. 78.
- ¹⁷ In a letter to Hegel of 4th February 1795, Schelling claims that a reading of *Of the I* will reveal the extent to which he had become a Spinozist. Schelling, 1973, pp. 64-5.
- ¹⁸ EPW, p 70. SW, I, p. 16.
- ¹⁹ C1, A 27/B 43. B 145.
- ²⁰ As mentioned in the previous chapter, it was precisely the task of Reinhold's *Elementarphilosophie* to discover the 'common root' of these faculties.
- ²¹ See Kant, C1, B145, where he speaks of intuitive understanding as a 'divine intellect'. As Allison points out, the concept of a 'noumenon' is to be distinguished from that of a 'thing in itself', insofar as it is only intelligible as the correlate of an intuitive understanding. It is therefore the 'epistemological concept *par excellence*'. See Allison, 1983, p. 242.
- ²² OCCP, p. 62. SK, pp. 146-7, SW, I, p. 155.
- ²³ See Lauth, 1962.
- ²⁴ Renaut, 1986, pp. 153-170.
- ²⁵ Brief summaries of Gueroult's position are provided by Philonenko and Renaut. Philonenko, 1999, pp. 25-26 and Renaut, 1986, pp. 153-154.
- ²⁶ Philonenko, 1999, p. 79. Philonenko, 1984, pp. 23-4.
- ²⁷ C1, A 61. Philonenko, 1999, p. 131.
- ²⁸ The first passage is from the third, practical part of the 1794-5 *Foundations*. OCCP, p. 149. SK, p. 251. SW, I, p. 285. The second is not referenced by Philonenko.
- ²⁹ Philonenko, 1999 pp. 254ff. Ferry, 1984, p. 120.
- ³⁰ Renaut, 1986, pp. 157-8. Philonenko, 1999, p. 256, footnote 39.
- ³¹ Prol., p. 276, footnote 6.
- ³² OCCP, p. 18. SK, p. 94. SW, I, p. 92.
- ³³ Fichte often rejects a particular construal of the relation of representation ('the I posits itself as determined by the not-I') on the grounds that it is contradictory and hence undermines the 'unity of consciousness'. See OCCP, p. 46. SK, p. 128, SW, I, p. 133.
- ³⁴ OCCP, p. 23. SK, p. 100. SW, I, pp. 99-100.
- ³⁵ Philonenko, 1999, pp. 78-80.
- ³⁶ Thomas-Fogiel, 2000, pp. 53-4.
- ³⁷ This interpretation is inspired by the account of the 1794-5 *Foundations* provided by T. P. Hohler in Hohler, 1982.
- ³⁸ A succinct statement of this conception of intentionality is provided by Sartre, 1947.
- ³⁹ Quine, 1960.
- ⁴⁰ OCCP, pp. 59, 69, 70, 72. SK, pp. 144, 156, 158. SW, I, pp. 152, 167, 168, 170.
- ⁴¹ OCCP, p. 41. SK, p. 122. SW, I, pp. 125, 126.
- ⁴² OCCP, p. 61. SK, p. 146. SW, I, p. 155.
- ⁴³ Philonenko, 1999, p. 24.
- ⁴⁴ OCCP, p. 42. SK, pp. 123-4, SW, I, p. 127.
- ⁴⁵ OCCP, p. 42. SK, p. 124. SW, I, p. 127.
- ⁴⁶ OCCP, p. 146. SK, p. 247. SW, I, p. 281.

- ⁴⁷ 'This synthesis is called the synthesis of *efficacy* (causality)'. OCCP, p. 48. SK, p. 131. SW, I, p. 136.
- ⁴⁸ OCCP, p. 48. SK, p. 130. SW, I, p. 135.
- ⁴⁹ OCCP, p. 60. SW, I, p. 153.
- ⁵⁰ Ferry, 1984, p. 124.
- ⁵¹ OCCP, p. 61. SK, p. 146. SW, I, p. 154.
- ⁵² OCCP, pp. 55-6. SK, pp. 139-40. SW, I, pp. 146-7.
- ⁵³ Ferry, 1984, p. 125.
- ⁵⁴ Pippin, 1989, p. 20.
- ⁵⁵ C1, B131.
- ⁵⁶ Allison, 1983, p. 137.
- ⁵⁷ Pippin, 1987-8, p. 77.
- ⁵⁸ Pippin, 1997, p. 40.
- ⁵⁹ Sartre, 1962, pp. 36ff.
- ⁶⁰ The awareness is 'immediate' insofar as it involves a direct presentation of the I. It is 'non-conceptual' insofar as it is not grasped with the aid of any concepts. As Kant puts it in the *Prolegomena*: 'The representation of apperception, the I' is 'nothing more than a feeling of an existence without the least concept, and is only a representation of that to which all thinking stands in relation (*relatione accidentis*)'. Prol, p. 334, footnote. This awareness is 'non-inferential' insofar as the subject does not attain this awareness through inference from any judgements about herself or her environment.
- ⁶¹ IWS, p. 46.
- ⁶² EPW, p. 109.
- ⁶³ Neuhauser, 1990, p. 72.
- ⁶⁴ Sartre, 1957, pp. 31-54.
- ⁶⁵ OCCP, p. 50. SK, pp. 133-4. SW, I, p. 139.
- ⁶⁶ OCCP, p. 52. SK, p. 136. SW, I, p. 142.
- ⁶⁷ OCCP, p. 62. SK, p. 147. SW, I, p. 155.
- ⁶⁸ Ferry, 1984, p. 127.
- ⁶⁹ An excellent account of Maimon's philosophy is provided in Beiser, 1987, Ch. 10.
- ⁷⁰ Maimon, 1989, p. 66.
- ⁷¹ As Beiser points out, Maimon equivocates over whether his infinite understanding has regulative or constitutive status, i.e. whether it actually constitutes experience or whether it is simply an idea which guides inquiry. Beiser, 1987, pp. 294-5.
- ⁷² Helpful discussions of this law are provided in Rescher, 1967, pp. 51-4 and Copleston, 1960, pp. 292-3.
- ⁷³ As Leibniz puts it in the *Preface to the New Essays on Human Understanding*, 'nature never makes leaps'. Leibniz, 1981, p. 56.
- ⁷⁴ Leibniz, 1981, pp. 54-5.
- ⁷⁵ Rescher, 1967, p. 54.
- ⁷⁶ Leibniz, 1989, pp. 132-3.
- ⁷⁷ Maimon, 1989, p. 138.
- ⁷⁸ Maimon, 1989, p. 50. Léon, 1954, p. 235.
- ⁷⁹ Maimon, 1989, p. 50.
- ⁸⁰ Leibniz, 1981, pp. 54-5.
- ⁸¹ OCCP, p. 56. SK, pp. 139-40. SW, I, pp. 147-8.
- ⁸² It is interesting to note that Schelling himself grappled with this question in *Philosophical Letters on Dogmatism and Criticism*. There, he notes that there seems to be no adequate reason as to why the absolute I would 'step outside of itself' and posit a not-I which limits it. Why, Schelling asks, should the absolute I sacrifice its original identity by creating an opposed sphere. Schelling cannot discover an answer to this question and therefore suggests that a synthesis of Dogmatism and Idealism should be attempted — a synthesis which would reconcile absolute subject and absolute object. Such a synthesis would be flatly rejected by Fichte, who (as we have seen) regards Dogmatism as philosophically untenable. Yet Fichte would also reject the problem to which this synthesis provides a solution. For as we shall see, Fichte has a very different conception of the absolute I and provides a tenable reason for its self-limitation.
- ⁸³ OCCP, p. 62. SK, p. 147. SW, I, p. 155.
- ⁸⁴ OCCP, p. 54. SK, pp. 137-8. SW, I, p. 144.
- ⁸⁵ OCCP, p. 62. SK, pp. 147-8. SW, I, p. 156-157. See also OCCP, p. 54. SK, p. 137. SW, I, p. 144.
- ⁸⁶ OCCP, p. 146. SK, p. 247. SW, I, p. 281.
- ⁸⁷ OCCP, p. 80. SK, p. 168. SW, I, 183.
- ⁸⁸ OCCP, p. 81. SK, p. 170. SW, I, p. 185.
- ⁸⁹ OCCP, p. 82. SK, p. 171. SW, I, p. 187.
- ⁹⁰ OCCP, p. 96. SK, p. 189. SW, I, p. 209.
- ⁹¹ OCCP, p. 97. SK, p. 189. SW, I, p. 210.
- ⁹² Breazeale, 1995.
- ⁹³ Breazeale, 1995, p. 88.
- ⁹⁴ OCCP, p. 98. SK, pp. 190-1. SW, I, p. 212.
- ⁹⁵ OCCP, p. 99. SK, p. 192. SW, I, p. 213.
- ⁹⁶ OCCP, p. 98. SK, p. 191. SW, I, p. 212.
- ⁹⁷ OCCP, p. 100. SK, p. 193. SW, I, p. 215. OCCP, p. 148. SK, p. 250. SW, I, p. 284.

⁹⁸ OCCP, pp. 146-7. SK, pp. 247-9. SW, I, pp. 281-3.

⁹⁹ OCCP, p. 148. SK, p. 250. SW, I, p. 284. See also OCCP, p. 93. SK, p. 185. SW, I, p. 205.

¹⁰⁰ OCCP, p. 168. SK, p. 272. SW, I, p. 311. See also IWS, p. 75.

¹⁰¹ IWS, p. 75.

¹⁰² OCCP, pp. 104-5. SK, p. 198-9. SW, I, p. 222.

¹⁰³ OCCP, pp. 108-121. SK, pp. 203-217. SW, I, pp. 227-246.

¹⁰⁴ OCCP, p. 105. SK, p. 199. SW, I, p. 222.

¹⁰⁵ I owe these points to Philonenko's excellent discussion of the 'Deduction of Representation' in Philonenko, 1999, pp. 303-316, 317-332.

¹⁰⁶ OCCP, p. 118. Fichte, SK, p. 213. SW, I, p. 241.

¹⁰⁷ Here I differ from Philonenko, who claims that an *actual* relationship of recognition is deduced. See Philonenko, 1999, p. 328-9.

¹⁰⁸ OCCP, p. 83. SK, pp. 172-3. SW, I, pp. 188-9. Philonenko, 1999, p. 24, 231.

THE FOUNDATIONS OF NATURAL RIGHT

The *Foundations of Natural Right According to the Principles of the Wissenschaftslehre* was published in two parts, the first in March 1796 and the second in September 1797.¹ It presents a systematic theory of natural right which is path-breaking in several respects. Firstly, it is in this text that Fichte argues that right is an *autonomous* discipline which is, in principle, independent of moral philosophy. This argument had a profound impact on political and legal philosophy, anticipating Kelsen's notion of a 'pure theory of right'.² Secondly, the *Foundations of Natural Right* marks a crucial step in the development of Fichte's philosophical system or 'Wissenschaftslehre'. For Fichte argues that it is the philosophy of right, not aesthetics, which 'mediates' between theoretical and practical reason. Thirdly, and finally, the *Foundations of Natural Right* presents the seminal claim that *intersubjectivity is a condition of the possibility of self-consciousness*. This claim, which rests upon the notion of *mutual recognition* (*Anerkennung*), was the inspiration for Hegel's dialectic of mastery and servitude in the *Phenomenology of Spirit*. The arguments in support of this claim represent Fichte's most extensive treatment of the notion of intersubjectivity — a treatment which builds upon and extends the treatment provided in the *Lectures*.

In what follows I shall largely be concerned with Fichte's discussion of intersubjectivity. However, I shall also discuss Fichte's claims that the philosophy of right is an autonomous discipline, and that it 'mediates' between theoretical and practical reason. For, insofar as the domain of right might be described as the intersubjective domain par excellence³, these claims emphasize the philosophical and political significance of intersubjectivity.

The following account will focus mainly upon the 1796-7 *Foundations of Natural Right*. However, I shall occasionally draw upon Fichte's 1796 review of Kant's *Toward Perpetual Peace*, which complements and reinforces the arguments of the 1796-7 text.⁴

The Title

The full title of Fichte's systematic treatise on right is *The Foundations of Natural Right According to the Principles of the Wissenschaftslehre*. The title tells us that the work is based upon the principles articulated in Fichte's 1794-5 *Foundations*. It also tells us that the work will establish the 'foundations' (*Grundlage*) of the theory of natural right.

Now, the notion of a philosophy of 'right' (*Recht*) is largely unfamiliar to Anglophone readers. For the German *Recht* — like the French *droit* — is not easily translated into English. As Neuhouser points out, it covers all of what we mean by 'right', 'law' and 'justice', and we possess no single discipline which would correspond to the German *Rechtsphilosophie* (nor, for that matter, to the French *Philosophie du Droit*).⁵ In Anglophone philosophy the domain covered by *Rechtsphilosophie* is shared between political and legal philosophy. In what follows I shall opt for the simplest and least confusing translation option, viz., translating the abstract noun *Recht* as 'right'.

The Autonomy of Right

In the Introduction to the *Foundations of Natural Right* Fichte opposes 'those who attempt to derive the theory of right from the moral law' by arguing that the 'philosophical theory of right [...] ought to be a separate science standing on its own'.⁶ Fichte has two arguments in support of this claim; one concerning the *sui generis* nature of concepts and principles of right, the other concerning the specific nature of the domain of right. Before discussing these arguments, however, a brief discussion of the political and philosophical motivations behind them will be helpful. For Fichte's arguments for the autonomy of right emerge from his attempts to defend the legitimacy of the French Revolution.

Following Christian Wolff, the German tradition of philosophy of right sought to derive right from morality.⁷ It defined principles of right in terms of moral principles and defined inalienable rights as those which safeguarded one's capacity to do one's duty. Morality was therefore considered to be the foundation of right. Kant's Critical philosophy inspired a new wave of legal theorists who sought to develop a Critical philosophy of right. The extraordinary proliferation of Kantian philosophy of right was perhaps due to the fact that Kant's Critical philosophy explicitly drew upon juridical and legal terminology.⁸ Indeed, the very notion of a transcendental deduction is explicated in terms of the legal distinction between *quid juris* and *quid facti*, and the term antinomy had a legal use, referring to the conflict between laws.⁹ Now, whilst Kantian philosophers of right sought to develop a Critical philosophy of right, they were decidedly uncritical in their acceptance of the traditional conception of the relationship between morality and right. Thus Hufeland's *Principles of Natural Right* (*Lehrsätze des Naturrechts*) of 1790 and Schmid's *Outline of Natural Right* (*Grundriß des Naturrechts*) of 1795 both defined right in terms of morality and moral obligation.¹⁰ Right is defined as whatever is not prohibited by the moral law and the sphere of right, for these writers, is the sphere of what we are morally permitted to do.¹¹ Within the sphere of right, the distinction between alienable rights and inalienable rights is drawn in terms of morality — it is morally permissible for the former to be relinquished in civil society, whereas it is

morally impermissible for the latter to be relinquished. These inalienable rights are 'directly' derived from the moral law insofar as they are the conditions of the possibility of my doing my moral duty. This is because inalienable rights prevent others from interfering with those freedoms which are necessary for me to do my duty. Thus, I have a right to the freedom to develop my rationality, because rationality is a necessary condition of acting morally.

In the *Contributions intended to Correct Public Opinion Concerning the French Revolution* of 1793, Fichte endorses this conception of the relationship between right and morality. He defines what we have a right to do as what is morally permissible — 'Everything that the law does not forbid, we are permitted to do. Everything we are permitted to do, we have the right to do, since this permission is legitimate'¹²; and derives inalienable rights directly from the moral law — we have the inalienable right to be free because 'we have the right to do our duty' and doing our duty presupposes freedom.¹³ Fichte also claims that moral consciousness is the supreme judge of all political relations and institutions:

Man in the state can be considered under various relations. First of all he is considered as an isolated being, alone with his conscience and the supreme executor of the decisions of his conscience. This is the highest jurisdiction [*Inстанz*]: all other relations are subordinate to it.¹⁴

Fichte therefore follows Hufeland and Schmid in defining right in terms of moral duty. Nevertheless, he differs from them insofar as he endorses the French Revolution and seeks to defend it against its conservative critics.

As noted previously, the *Contributions* is a point by point refutation of Rehberg's condemnation of the French Revolution. Rehberg's argument rested upon the notion that there is a profound split between theory and praxis — between the moral ideals of the revolution (theory) and the irremediably corrupt nature of humanity (praxis). Given the innate wickedness of humanity, the notion that the *volonté de tous* and the *volonté générale* could coincide was, Rehberg contended, an unrealizable utopian fantasy. The only form of government which could ensure the unity of theory and practice, was an authoritarian absolute state. Now, members of the Kantian school (such as Hufeland) were in full agreement with Rehberg's demand for an authoritarian state.¹⁵ This was because, whilst they defined right as being that which morality demanded, they accepted Rehberg's claim that humanity, being innately wicked, couldn't satisfy this demand. Realizing that this claim rested upon a Hobbesian conception of the state of nature as a 'war of all against all', Fichte advocated an alternative conception of the state of nature as an essentially *neutral* state.¹⁶ Fichte claims that he cannot convince himself of the 'original wickedness of man' (*ursprüngliche Bösigkeit der Menschen*) to which his opponents continually appeal, and declares the 'old' idea of a state of

nature' as a 'war of all against all' (*Krieg Aller gegen Alle*) to be simply 'false'.¹⁷ According to Fichte, 'the only true thing' is:

that an infinite manifold is given, which is in itself neither good nor evil, but only becomes one or the other by the free application of human beings, and that will, indeed, not become better until we have become better.¹⁸

By asserting the neutrality of the state of nature, Fichte is attempting to undermine Rehberg's justification for a coercive, authoritarian state. For Rehberg's justification of such a state rests upon the claim that human nature is innately wicked. By describing the state of nature as an undetermined, 'infinite manifold' Fichte is also attempting to secure a possibility denied by Rehberg — the possibility of communal life without state constraint. Fichte's neutral state of nature secures the possibility of a pre-political state of right founded upon the moral law.¹⁹ In claiming that this 'infinite manifold' of the state of nature can be determined by the free, spontaneous activity of human beings, Fichte is also asserting his 'Copernican' conception of history (which we discussed earlier, in chapter 4) as something which is actively produced by free agents. Fichte therefore provides a response to both Rehberg and the Kantians who support Rehberg. For the Fichte of 1793, right is derived from morality and human agents are capable of acting morally.

Nevertheless, the very position which allowed Fichte to respond to Rehberg created insuperable problems for his political philosophy, problems which forced him to modify his conception of the relationship between right and morality. The first problem, as Ferry and Renaut have both pointed out, arose from his conception of the state of nature as a neutral state which could be determined solely by human freedom.²⁰ This conception secured the possibility that humanity *could* develop morally, but — and this was the problem — not that it necessarily would. Given the complete indeterminacy of the state of nature, there was no reason why the 'infinite manifold' of the state of nature should develop in one way rather than another. As Renaut notes, 'as the good will only depends upon freedom, relations of right between men could just as well arise as remain forever absent from the sensible world'.²¹

Had Fichte provided reasons why 'positive' moral relations should emerge, he would have risked suggesting that the development was predetermined (e.g., by Providence or Nature), and would consequently have risked undermining his 'Copernican' conception of history as the product of autonomous action. However, Fichte's failure to guarantee the realization of a state of right, raises the very problem which his solution seeks to overcome, viz., the problem of the unity of theory and practice. For it could be argued that, whilst Fichte guarantees the possibility of such a

state in theory, he provides no guarantee that it will be established in practice. Consequently, Fichte is laid open to the charge of naïve utopianism.²²

As Ferry has suggested, it is perhaps for such reasons that Fichte sought to abandon the position advanced in the *Contributions*.²³ Indeed, Fichte came to realize that another reply to Rehberg's argument was possible, a reply which rejected the assimilation of right to morality advocated by the Kantian school. This reply was articulated, somewhat ironically, by Kant himself (in the 1794 *Idea for a Universal History with a Cosmopolitan Aim* and the 1795 *Toward Perpetual Peace*). Whereas Fichte's solution consisted in denying the premise of Rehberg's argument — that humanity was innately wicked, Kant's solution consisted in accepting Rehberg's premise whilst denying his conclusion — that an authoritarian state was necessary. For Kant, all that was needed was an 'enclosure' in which the 'crookedness' of human beings would gradually be transformed into rectitude. The establishment of such an enclosure would require rules guaranteeing the protection of the freedom of all. These rules would regulate intersubjective relations in such a way that agents driven by self-seeking interest would each come to restrict their freedom. In *Toward Perpetual Peace* Kant claims that it is merely a question of:

arranging those forces of nature [i.e., the self-seeking inclinations of agents] in opposition to one another in such a way that one checks the destructive effect of the other or cancels it, so that the result for reason turns out as if neither of them existed at all and the human being is constrained to become a good citizen *even if not a morally good human being*. The problem of establishing a state, no matter how hard it may sound, is *soluble* even for a nation of devils (if only they have understanding) [...]²⁴

As this passage makes clear, Rehberg's authoritarian state is unnecessary, even for a people of 'devils'. Kant's 'enclosure' exerts a minimum of constraint upon its members; it simply arranges things so that they will, by virtue of their 'unsocial sociability', discipline themselves. As Renaut has argued, with reference, to the *Idea* essay, the state constituted by such an enclosure would be a 'fundamentally liberal' state.²⁵ Kant therefore accepts Rehberg's premise whilst denying his conclusion. Now, a crucial upshot of Kant's strategy is a clear separation between right and morality. For right is not that which permits me to do my duty — it is that which guarantees the co-existence of free agents irrespective of their moral dispositions.²⁶ By insisting that right may be realized independently of morality, Kant's strategy therefore breaks with the 'Kantian' school of right.

Fichte was greatly impressed with Kant's separation between right and morality, although he had certain misgivings about Kant's 'theoretical' or 'naturalistic' (Renaut) conception of the mechanism whereby the citizens would attain rectitude — 'unsocial sociability'. Nevertheless, it is perhaps not incorrect to speak, with Druet, of Fichte's

'conversion' to Kant's political philosophy.²⁷ For Fichte is convinced, with Kant, that it must be possible for right to be realized independently of morality ('Right must be enforceable, even if there is not a single human being with a good will') and it is this conviction that motivates the two arguments for the autonomy of right in the *Foundations of Natural Right* of 1796-7.²⁸

The first of these arguments turns on the notion that there is a fundamental difference between laws of right and laws of morality, where 'laws of morality' are to be understood as formulations of the categorical imperative. The difference lies in the fact that laws of morality are *unconditionally* applicable, they apply unconditionally and without exception to all human deliberations and actions. By contrast, laws and principles of right only have *conditional* and restricted applicability. Their applicability is conditional because they only apply if certain conditions are met. As these conditions are, by necessity, not met by all human deliberations and actions, the applicability of these laws is restricted — they only apply to a restricted domain of human deliberations and actions. In order to explain this special status of a law of right, Fichte draws upon Kant's discussion of a 'permissive law' (*Erlaubnisgesetz* or *lex permissiva*) in *Toward Perpetual Peace*. There, Kant outlines a distinction between 'prohibitive laws' and 'permissive laws', in relation to the second 'preliminary article' for perpetual peace: 'No independently existing state (whether small or large) shall be acquired by another state through inheritance, exchange, purchase or donation'.²⁹ This law is 'prohibitive' insofar as it prohibits the modes of acquisition mentioned. However, the prohibition is restricted to *future* acquisitions, past acquisitions are exempt. This exemption from the prohibition is the 'permissive part' of the law which specifies the 'limiting conditions' on the applicability of the law. Whilst these limiting conditions usually take the form of a series of clauses appended to the law, they should, Kant maintains, be included within the prohibitive law. Such a law would then 'become at the same time' a permissive law.³⁰

In the third part of the Introduction to the *Foundations of Natural Right*, Fichte gives the following account of laws of right as permissive laws:

A right is clearly something that one can avail oneself of or not. Thus a right follows from a merely permissive law, and it is a permissive law because it is limited only to a certain sphere, from which it can be inferred that outside the sphere of the law one is free from it, and if there is no other law concerning this object, one is generally left solely to one's own arbitrary choice [*Willkür*]. This permission is not explicitly contained in the law; it is merely inferred from an interpretation of the law, from its limited character. The limited character of a law manifests itself in the fact that it is conditioned. It is absolutely impossible to see how a permissive law should be derivable from the moral law, which commands unconditionally and thereby extends its reach to everything.³¹

The law of right is therefore conditioned and restricted, in opposition to the moral law which is unconditioned and unrestricted. Now, insofar as Kant conceives of the class of

permissive laws as a class of disparate, heterogeneous laws, the conditions pertaining to them could be of varying sorts. As regards the second 'preliminary article' for perpetual peace, the conditions are 'temporal': the law is applicable on the condition that the acquisitions occur after a certain time. Yet the conditions could be of a different type. They could, for example, be 'physical': the application of a law stating that everyone must be prepared to defend their country would be restricted to those agents who are 'able-bodied'. For Fichte, laws of right all have conditions of the same type, a type which we might call 'volitional': they are all conditioned by the 'free' or 'arbitrary choice' (*Willkür*) of rational agents. This means that agents are only obligated by these laws, if they have voluntarily undertaken a commitment to the state of affairs these laws secure and promote. If an agent has not voluntarily undertaken this commitment, then she is not, *ipso facto*, bound by the laws securing and promoting it. Thus the 'law of right' — 'Limit your freedom through the concept of the freedom of all other persons with whom you come into contact' — aims to secure and promote a 'community of free beings'.³² If living in a community of free beings were an unconditional command of morality, the law of right would be a categorical imperative. However, living in a community is a matter of free, arbitrary choice — it is up to the rational agent if she wants to live with other rational beings. Consequently, the sphere of application of the law of right is restricted to just those rational agents who have chosen to live in a community. Those rational agents who have chosen to live alone, e.g., the proverbial hermit, fall outside the purview of the law of right. As Fichte puts it:

Now in the doctrine of right there is no talk of moral obligation; each is bound only by the free, arbitrary [*willkürlichen*] decision to live in community with others, and if someone does not at all want to limit his free choice [*Willkür*], then within the field of the doctrine of right, one can say nothing further against him, other than that he must then remove himself from all human community.³³

The law of right is thus a permissive law, a law with restricted application. Insofar as its application is dependent upon the agent having 'arbitrarily' chosen the end it promotes, it might also be described as an 'hypothetical' or 'technical-practical' imperative.³⁴

Now it is Fichte's contention that it is impossible to derive a conditionally applicable law from a law that is unconditionally applicable. His reason for claiming this seems to be the plausible notion that it is impossible to conceive of the relevant conditions as being somehow 'intrinsic' to the unconditional law. Unless these conditions can be created *ex nihilo* from the unconditional law, it seems that they must be extrinsic to it and thus introduced 'from outside'. Consequently, a conditionally applicable law cannot be derived from an unconditionally applicable law. Given the impossibility of such a derivation, Fichte claims that laws of right cannot be derived

from laws of morality and therefore claims to have refuted those theorists who 'attempt to derive the theory of right from the moral law'.

Fichte has another argument for insisting on a separation between right and morality; an argument that turns upon the differing natures of their respective domains. Fichte regards morality as legislating over the purely private deliberations of individuals. The moral law applies to the individual's conscience and this is a private, inner realm. The law of right, by contrast, applies to the publicly observable interaction between rational agents. Fichte writes:

Rational beings enter into reciprocal interaction with one another only through actions, expressions of their freedom, in the sensible world: thus the concept of right concerns only what is expressed in the sensible world: whatever has no causality in the sensible world — but remains inside the mind instead — belongs before another tribunal [*Richterstuhl*], the tribunal of morality.³⁵

Morality therefore legislates over the 'inner' domain of conscience, whereas right legislates over the 'outer' domain of interaction. Using terminology introduced in chapter 2, we could say that the domain of morality is 'monological', insofar as it is concerned with the deliberations of an isolated agent. The domain of right, by contrast, is the domain of interaction between rational beings. As Fichte puts it in his review of Kant's *Toward Perpetual Peace*:

One can talk about right only to the extent that human beings are considered in relationship to one another, and a right is nothing outside of a relationship of this sort [...]. How can free beings, as such, continue to co-exist with one another? This is the supreme question concerning right [...].³⁶

The domain of right is therefore the domain of relationships between rational beings or the domain of intersubjectivity. It could also be described as 'society' (*Gesellschaft*) insofar as this term is defined, in the *Lectures*, as 'the relationship in which rational beings stand to each other'.

This conception of the domain of right is radically opposed to the conception advanced in the 1793 *Contributions*. There, Fichte endorsed a conception of political society as an aggregate of individuals, each of whom could, in principle, exist independently of his fellow citizens. What mattered, in the 1793 *Contributions*, was the 'isolated being, alone with his conscience' — social relations were of secondary importance. To this extent, the Fichte of 1793 endorsed the social atomism which, according to Taylor, is characteristic of classical liberal 'primacy-of-right theories' (the chief representative of which is Locke).³⁷ In the 1796-7 *Foundations of Natural Right*, by contrast, what matters are the relations *between* rational beings — individuals are

not considered independently of their relations to one another. Any such consideration now falls within the province of moral philosophy.

Having discussed Fichte's arguments for the autonomy of right, let us now turn to his claim that right serves a 'mediating' function.

The Mediating Function of Right

We have already noted (in chapter 4) that Fichte's interest in political philosophy plays a crucial role in his transcendental idealism. However, we have not yet discussed the role that the philosophy of right plays within Fichte's conception of transcendental idealism as a complete system — a *Wissenschaftslehre*. In order to grasp the significance of Fichte's 1796-7 *Foundations of Natural Right* a discussion of this role is crucial.

In the first edition of the 1794 programmatic essay *Concerning the Concept of a Wissenschaftslehre or, of So-called "Philosophy"*, Fichte presents an 'Hypothetical Division of the *Wissenschaftslehre*'. In this brief précis of his proposed system he tells us that the second part of the *Wissenschaftslehre* will provide the foundations for:

new and thoroughly elaborated theories of the pleasant, the beautiful, the sublime, the free obedience of nature to its own laws, God, so-called common sense or the natural sense of truth, and finally, for new theories of natural law and morality, the principles of which are material as well as formal.³⁸

We have already discussed the inclusion of 'common sense' in this enumeration of the theories to be included in a complete *Wissenschaftslehre*. What is of interest here is the *order* of the enumeration. For, assuming, with Renaut³⁹, that the order indicates priority, one would expect the theories of natural right and morality to be at the head of this list, given Fichte's emphasis on *practical reason*. Instead, Fichte seems to place greater emphasis on theories which are clearly intended to be systematic developments of elements of Kant's *Critique of the Power of Judgement*.⁴⁰ Nevertheless, this prevalence of 'aesthetic' disciplines is not surprising at all. For Fichte's engagement with the third *Critique*, and the role of this engagement in the genesis of his system, has been well documented.⁴¹ Fichte felt the third *Critique* to be of such significance, that he undertook, in 1790, to write a commentary intended for publication.⁴² This commentary was never completed, but Fichte continued to pursue his interest in the third *Critique* in the manuscript *Practical Philosophy* (*Praktische Philosophie*) which has been attributed to early 1794.

Fichte's interest in the third *Critique* was largely focused on Kant's attempt to cross the 'abyss' separating theoretical and practical reason. In the Preface to the first edition of *Concerning the Concept* Fichte tells us that he:

remains convinced that no human understanding can advance further than that boundary on which Kant, especially in the *Critique of Judgement*, stood, and which he declared to be the final boundary of finite knowing—but without ever telling us specifically where it lies.⁴³

Given Fichte's fascination with the mediating role of the third *Critique*, it is perhaps understandable that he should draw upon aspects of it to develop his system. However, Fichte never carried out the proposed plan, and failed to construct any of the projected theories. In the second edition of *Concerning the Concept*, published in 1798, the Hypothetical Division of the *Wissenschaftslehre* is entirely absent. In the accompanying Preface, Fichte explains this absence by noting that the contents of the section have 'received much clearer and more ample expression in the *Foundations of the Entire Wissenschaftslehre*'.⁴⁴ Now, this explanation is far from convincing.⁴⁵ For whilst the foundations of morality are clearly treated in the second part of the 1794-5 *Foundations*, it is not at all evident that the foundations for theories drawn from the third *Critique* are to be found there. There is simply no account of anything which could be construed as providing the foundations of aesthetics or teleology. Whatever receives 'much clearer and more ample expression' in the 1794-5 *Foundations*, it cannot be the specific theories associated with the third *Critique*. We are therefore faced with the following question: Did Fichte become disenchanted with the third *Critique*?

The answer to this question is complex. Fichte always felt that the specific task of the third *Critique* — crossing the 'abyss' between theoretical and practical reason — was crucial to the completion of the Critical philosophy. Yet, whilst he consistently endorsed the *task* of the third *Critique*, Fichte came to the realization that aesthetic and teleological judgement are inadequate for this task. This is due to the fact that these types of judgement are modes of *reflecting* — as opposed to *determining* — judgement, and consequently only allow us to make 'problematical' judgements about their objects, judgements the truth or falsity of which is merely *possible*. In other words, we can never *know* whether natural phenomena actually have a purpose, or whether beauty is the 'symbol' of morality; we can only judge '*as if*' (*als ob*) this were the case. Such judgements therefore do not provide genuine cognition of the supersensible realm of freedom, they merely allow us to suppose that it exists. Now this is clearly unsatisfactory as regards the mediating role assigned to the third *Critique*. In terms of Kant's metaphor, the transcendental philosopher would be engaged in the absurd project of building a bridge without knowing if there was another side to cross to.

Fichte gradually came to realize, between 1794 and 1798, that another discipline was far more suitable than aesthetics to mediate between theoretical and practical judgement: the philosophy of right. During this period Fichte had constructed and taught his *Foundations of Natural Right* and his *System of Ethical Theory* (*System*

der Sittenlehre). He had also attempted a new 'presentation' (*Darstellung*) of the foundations of the *Wissenschaftslehre* — the *Foundations of Transcendental Philosophy (Wissenschaftslehre) Nova Methodo*. At the end of this work Fichte provides a 'Deduction of the Subdivisions of the *Wissenschaftslehre*'⁴⁶, which presents a retrospective overview of the Jena system. A comparison of this overview with the programmatic 'Hypothetical Division' of 1794 is illuminating.⁴⁷ For whereas the 'Hypothetical Division' assigned a mediating function to 'aesthetic' theories, the 'Deduction of the Subdivisions' assigns this function to the theory of right. It is now the theory of right which is at the centre of the *Wissenschaftslehre*. According to Fichte:

The nature of this science has been misunderstood for a very long time. It occupies the middle ground between theoretical and practical philosophy; it is theoretical and practical philosophy at the same time.⁴⁸

It is therefore right, not aesthetics, which provides the sought-for bridge between theoretical and practical philosophy, insofar as it is both 'theoretical and practical philosophy at the same time'. The theory of right is 'theoretical' insofar as its domain is a world which, like the natural world, can be 'discovered'. In this domain, the action and interaction of a community of 'bodies' (human agents) is governed by discernible, 'mechanical' laws (the laws of right). Nevertheless — and this is where Fichte distances himself from Kant's 'theoretical' or 'naturalistic' conception of right — the ultimate origin of these laws is not to be imputed, however 'regulatively', to the hidden influence of Providence or Nature. For these laws are *freely* created by human agents in order to secure and promote the possibility of morality. They are freely created in order to secure and promote the possibility of freedom in its fullest, 'Kantian' sense, viz., governing oneself in accordance with a self-given rational law (the moral law). In this sense, the theory which studies these laws is 'practical'.

The laws which mechanically regulate the domain of right — the domain of intersubjective relations — therefore have a practical purpose. They seek to secure a sphere of non-interference or 'negative freedom', within which agents may develop genuine moral freedom. Such a sphere provides a condition of the possibility of the moral improvement of humanity. Through positive intersubjective relations, relations which enable agents to act in accordance with practical reason, the possibility of human beings gradually coming to treat one another as ends in themselves is secured. As we saw in chapter 5, this emphasis on the mediating role of right was already present in *Some Lectures Concerning the Scholar's Vocation* which presents the state as the means for the realization of the 'vocation of man in itself'. Nevertheless, it is only in the 1796-7 *Foundations of Natural Right* that the sphere of right is explicitly assigned this role.

Now, it might be objected that Fichte's conception of right as a means for the realization of morality is not that different from his position in the 1793 *Contributions*, in which inalienable rights were the condition of the possibility of doing one's duty. To counter such an objection one simply needs to note that in the *Contributions* rights were defined *solely* in terms of the moral law, and their sole function was to enable one to act morally. The position of 1796 is somewhat different. Here rights guarantee the co-existence of individuals and fulfil this function independently of morality. They would fulfil this function even for a 'people of devils'. Nevertheless, rights derive their ultimate value from the fact that they secure the possibility of moral development, a possibility that will be promoted by the educational and cultural institutions of the state. It is only within a state in accordance with right that humanity may fulfil its moral vocation. As Renaut puts it:

Totally autonomous in relation to morality as to its *functioning*, as to its *value*, right remains — and this, quite obviously, without any contradiction — subordinated to the categorical imperative.⁴⁹

Right therefore only has value insofar as it secures a sphere in which humanity may realize its moral vocation. Nevertheless, the sphere of right and the subjects of right can be discussed independently of this moral purpose, and this is the point behind Fichte's claim that the theory of right is an autonomous discipline.

Fichte's insistence upon the autonomy of right means that his argument in the *Foundations of Natural Right* for the legitimacy and necessity of rights is not couched in moral terms. Fichte does not justify rights by arguing, as he did in the *Contributions*, that they are required for man to realize the moral possibility inherent in the manifold that constitutes his 'nature'. Rather, Fichte provides a justification of rights that is independent of morality. Rights, Fichte argues, are conditions of the possibility of intersubjectivity which is, in turn, the condition of the possibility of self-consciousness. It is this argument that will have a decisive, if indirect, influence on the history of philosophy.

The Deduction of the Concept of Right

This argument, which represents a crucial development in Fichte's theorizing about intersubjectivity, is presented in the first division of the *Foundations of Natural Right*, the 'Deduction of the Concept of Right'. Now, the term 'deduction' is to be understood in its Kantian sense as a transcendental argument which seeks to justify a belief or proposition. Following Stern, a transcendental argument can be broadly characterized as involving:

a transcendental claim of the form 'X is a necessary condition for the possibility of experience, language, thought, etc.', where the *rationes cognoscendi* of this claim is non-

empirical, and the *rationes essendi* is not that it is analytically true or true by virtue of the laws of nature.⁵⁰

Thus, Kant's argument in the 'Refutation of Idealism' involves the claim that the existence of persisting 'outer objects' is a necessary condition of self-consciousness. For I can only apprehend myself as a self, the argument runs, if I can discriminate myself from something that is *not* me. In a similar way, Fichte's 'deduction' seeks to show that a certain 'X' — the concept of right — is a condition of the possibility of a certain mode of experience — self-consciousness. Given that the concept of a right is defined as 'the concept of a relationship between rational beings', an argument demonstrating that the concept of right is a necessary condition of self-consciousness is tantamount to an argument demonstrating that the concept of a certain intersubjective relationship is a necessary condition of self-consciousness.⁵¹

Fichte's argument is ambitious. It seeks to provide a definitive reply to Jacobi's charge that transcendental idealism is condemned to transcendental solipsism by providing a 'deduction' of a specific intersubjective relationship as a condition of the possibility of self-consciousness. Yet it also seeks to provide a powerful riposte to the sceptic about rights. Such a sceptic regards the notion that there are natural, imprescriptible rights as, to use Bentham's infamous phrase, 'nonsense upon stilts'.⁵² The claim that rights are universally valid, context-transcendent norms is regarded by the sceptic about rights as utterly meaningless. Insofar as such a sceptic offers an account of what rights are, they are simply conventions or 'positive laws' (laws that actually exist or have existed). Fichte's argument attempts to demonstrate that, if the sceptic regards herself as self-conscious, she must, on pain of inconsistency, accept that there are natural rights. For rights are the necessary conditions of the possibility of self-consciousness. Fichte's argument therefore moves from the uncontroversial claim that we possess self-consciousness, to the philosophically substantive claim that there are human rights. The sceptic must accept the claim that she is self-conscious, insofar as her denying this claim would constitute a pragmatic contradiction ('I am not self-conscious' is pragmatically inconsistent because the very act of uttering the statement presupposes the very state of affairs denied by its locutionary content, i.e., self-consciousness).⁵³ And if she accepts that she is self-conscious she must accept that there are certain necessary conditions of self-consciousness — namely, rights. Fichte's whole problem is to show that rights in the relevant sense — universal, imprescriptible rights — are necessary conditions of the possibility of self-consciousness.

Fichte's argument is therefore ambitious. Yet a closer look at the argument reveals the scope of Fichte's ambition. For the transcendental argument for the existence of natural rights is composed of three transcendental arguments, each of which addresses a specific sceptical issue and seeks to establish the condition of the

possibility of the conclusion of its predecessor. The first argument argues that the subject of experience can only be self-conscious if it possesses the belief in the existence of an external world. The second argument argues that the subject can only possess this belief, and thus be self-conscious, if it enters into a relationship with another rational being. The third, and final argument, argues that this relationship must be a relationship of mutual recognition protected by rights. In what follows, I shall discuss each of these arguments in turn.

The Deduction of the Belief in an External World

The 'first theorem' of the *Foundations of Natural Right* states that:

*A finite rational being cannot posit itself without ascribing a free efficacy to itself.*⁵⁴

Fichte opens his commentary on this theorem by stating that 'the mark of a rational being' is 'Activity that reverts into itself in general' (*In sich selbst zurückgehende Tätigkeit überhaupt*), which activity is identical with 'I-hood' (*Ichheit*) or 'subjectivity' (*Subjektivität*). Now an act of this activity, Fichte claims, is self-consciously grasping oneself in thought, which he describes as 'positing oneself (reflecting upon oneself)'.⁵⁵ Fichte's thought here is that the act of self-consciousness is a 'bending back' (the meaning of the Latin *reflexio*⁵⁶) of the I towards itself. It is a 'turning away' of consciousness from the world towards itself. Now human beings are, the 1794-5 *Foundations* has shown, *finite* rational beings, beings which can 'reflect only upon something limited'. In self-consciousness the I must therefore grasp itself as a limited or finite activity. But the I must also grasp itself as a *rational* being. The I's finite activity, which is the object of reflection, must therefore be an activity that 'reverts into itself'. This activity must not be an activity which is directed towards the world, but an activity which is directed towards the I. Such a finite, self-directed activity is described by Fichte as 'practical activity' or 'willing' (*Wollen*). This practical activity is a 'free self-determination to exercise efficacy [*Wirksamkeit*]' and is, Fichte claims, what we are aware of in self-consciousness: 'the practical I is the I of original self-consciousness'.⁵⁷ To be aware of this activity is to ascribe a capacity for 'free efficacy' to oneself — a capacity to rationally set ends and to will to realize them. The existence of such a 'practical I' is therefore a condition of the possibility of self-consciousness. Yet the existence of this 'practical I' presupposes, as its condition of possibility, the existence of a 'theoretical I' for, as Fichte puts it, 'I must represent whatever I will'.⁵⁸ This 'theoretical I' is the I's 'world-intuiting activity' (*die Tätigkeit in der Weltanschauung*) or 'representing' (*Vorstellen*).⁵⁹ This world-intuiting activity represents a seemingly mind-independent, external world — a 'system of objects' — which stands opposed to, and

limits, the I's practical activity.⁶⁰ Yet, whilst this system of objects opposes and limits the I's practical activity, it also constitutes a domain in relation to which the I can set ends and within which it can attempt to realize them. Without the representation of such a domain, the I would not be able to set ends, let alone realize them, and it would therefore not be able to ascribe free efficacy to itself (free efficacy being the capacity to set ends and to will to realize them). Representation of an external world — the I's 'theoretical activity' — is therefore the condition of the possibility of the I's practical activity which is, in turn, the condition of the possibility of self-consciousness. With this, Fichte has 'deduced' the representation or belief in the existence of the external world as a condition of the possibility of self-consciousness. This transcendental argument is therefore complete.

This transcendental argument pertains to Fichte's project of justifying *doxa*. For a central component of the common sense view of the world is the belief in the existence of a mind-independent external world. By showing that this belief is a necessary condition of self-consciousness Fichte has provided a transcendental justification of this belief. Fichte writes:

Philosophy must deduce our belief in the existence of an external world. Now this has been accomplished here on the basis of the possibility of self-consciousness, and our belief in the existence of an external world has been shown to be a condition of this self-consciousness. Since the I can posit itself in self-consciousness only practically, but in general can posit only what is finite, and hence must also posit a limit to its practical activity, it follows that the I must posit a world outside itself. Every rational being proceeds originally in this way, and so, too, undoubtedly the philosopher.⁶¹

Fichte's transcendental argument for the belief in the existence of the external world may seem reminiscent of Kant's 'Refutation of Idealism' in the second edition of the first *Critique*.⁶² For Fichte's argument essentially rests upon the claim that the belief in the existence of a mind-independent external world is a necessary condition of the possibility of self-consciousness. Fichte certainly has Kant in mind here, yet his real target is Jacobi. For the prototype of this argument is first provided by Jacobi in *Concerning the Doctrine of Spinoza in Letters to Herr Moses Mendelssohn* and *David Hume on Faith, or Idealism and Realism, A Dialogue*. In these works, Jacobi claims that a mind-independent 'Thou' (*Du*) is a condition of the possibility of self-consciousness, that I can only be aware of myself as a being that is opposed to a realm of persisting mind-independent objects.⁶³

Now the fact that Fichte only claims to provide a deduction of 'our belief in the existence of an external world' is of considerable significance. For the phrasing indicates that Fichte does not think that this argument can serve as a 'refutation of idealism', at least not as Jacobi understands it. All the argument can show, Fichte

suggests, is that '*our belief*' in a mind-independent world is a condition of the possibility of self-consciousness. The difference Fichte is getting at here can be expressed as a difference between two types of transcendental argument. Following Stern, we can distinguish between 'truth-directed' (or 'world-directed') transcendental arguments and 'belief-directed' transcendental arguments. Truth-directed transcendental arguments seek to demonstrate that the sought-for necessary condition 'X' is a mind-independent state of affairs. They represent a strong claim which is difficult to vindicate against the sceptic and are vulnerable to Stroud's verificationism objection.⁶⁴ Belief-directed transcendental arguments, on the other hand, avoid Stroud's objection by seeking to demonstrate that the required 'X' is a *belief*. They represent a weaker claim which, insofar as it is not committed to the existence of a mind-independent reality, is easier to vindicate.

Following Strawson, the argument of Kant's Refutation of Idealism has standardly been interpreted as a truth-directed transcendental argument.⁶⁵ And Jacobi clearly thinks that his own argument is truth-directed. Nevertheless, Fichte presents his deduction as belief-directed. All such arguments can show, Fichte seems to be saying, is that the *belief* in the existence of the external world is a necessary condition of the possibility of self-consciousness. Yet, if Fichte's argument only establishes the necessity of our *belief* in the existence of the external world how, one might ask, can it possibly be construed as anti-sceptical? The answer to this question is that the argument shows that the sceptic's goal of getting us to relinquish or disavow such a belief is unachievable. For even though this belief may turn out not to be veridical, it is, so the transcendental argument has shown, unavoidable.⁶⁶ It is not a belief that we can relinquish, such as a belief in the tooth fairy or a belief in ghosts.

Having argued that belief in the existence of the external world is a condition of the possibility of self-consciousness, Fichte now proceeds to argue that this necessary belief itself has conditions.

The Deduction of Intersubjectivity

Belief in the existence of the external world is therefore a condition of the possibility of self-consciousness. If the subject is to attain self-consciousness, it must grasp itself as practical activity and it can only do this in opposition to a sensible world. The subject must therefore posit the existence of a sensible world. Now Fichte claims that it must be possible to conceive of an original moment in which this takes place. There must be a primordial situation in which the subject simultaneously grasps itself as a free, practical being in opposition to a sensible world:

self-consciousness is possible if the rational being can — in one and the same undivided moment — ascribe an efficacy to itself and posit something in opposition to that efficacy.⁶⁷

In order to be self-conscious, the subject must be able to ascribe a capacity for free efficacy to itself. To do this it must posit an object in opposition to itself. Yet the subject can only posit the object as a limit to its activity if it has already ascribed a capacity for free efficacy to itself. It must, in other words, already be aware of itself as an active, free being if the object is to be opposed to it. Yet it can only be aware of itself as an active, free being if it has already posited an object in opposition to itself. It is therefore impossible to think of both of these activities as taking place in one and the same moment; we are constantly referred to a prior moment in which either the subject has ascribed free efficacy to itself or has posited an object in opposition to itself. Yet it must be possible, Fichte claims, for these two actions to be united in one and the same moment. It must, at least in principle, be possible to think of the co-emergence of self-consciousness and the world. Fichte provides the following account of what such a 'synthesis' would be like:

The reason for the impossibility of explaining self-consciousness must be canceled. But it can be canceled only if it is assumed that *the subject's efficacy* is synthetically unified with the *object* in one and the same moment, that the subject's efficacy is itself the object that is perceived and comprehended, and that the object is nothing other than the subject's efficacy (and thus that the two are the same). Only with such a synthesis can we avoid being driven to a preceding one; this synthesis alone contains within itself everything that conditions self-consciousness and provides a point at which the thread of self-consciousness can be attached. It is only under this condition that self-consciousness is possible.⁶⁸

This 'synthesis' only seems to deepen the problem. For as Fichte points out, an object is something which stands over and against the subject and constrains its activity. How, then, could an object 'be' the subject's free efficacy, the nature of which is to be 'absolutely free and self-determining'?⁶⁹ Fichte's answer to this question is that the object in question limits or determines the subject in such a way that the subject realizes its efficacy. Both the object and the subject are completely united if:

we think of the subject's being-determined as *its being-determined to be self-determining*, i.e. as a summons [*eine Aufforderung*] to the subject, calling upon it to resolve to exercise its efficacy.⁷⁰

The influence the object exercises upon the subject must therefore be a 'request' or 'summons' (*Aufforderung*) that the subject manifest its free efficacy, that it act: 'the object is not comprehended, and cannot be comprehended in any other way, than as a bare summons calling upon the subject to act'.⁷¹ The object therefore does not present the subject's free efficacy as something which actually exists, 'for that would be a

genuine contradiction', but as 'something that *ought* to exist in the future'.⁷² In other words, the object presents the subject's free efficacy to it 'proleptically', as something to be realized.

The subject understands that the summoning object is another rational being, and understands that this being is demanding that it realize its capacity for free efficacy. Now the summoned subject can respond to this demand in one of two ways. It can respond by '*actually acting*', in which case it chooses to realize one action from a set of possible actions available to it. By freely and rationally choosing to perform an action, the rational being has realized its capacity for free efficacy. As such, 'it is a rational being and also posits itself as such'.⁷³ Alternatively, the subject can respond to the summons by simply ignoring it, by refusing to respond. Yet its decision to ignore the summons is a decision based upon an understanding of what is required of it, viz., free efficacy. By refusing to answer the summons the subject has exercised its capacity for free efficacy. It has chosen freely, and understands itself to be the author of this free choice. Thus, regardless of how it chooses to respond, the subject — by virtue of this choice — attains self-consciousness, i.e., ascribes a capacity for free efficacy to itself. The summons and the response elicited by the summons are therefore conditions of the possibility of the subject attaining self-consciousness. Now, summons and response, '*effect*' (*Wirkung*) and '*counter-effect*' (*Gegenwirkung*) must be necessarily related so that it is impossible for one to occur without the other also occurring. This necessary union of effect and counter-effect is the concept of '*free reciprocal efficacy*' (*freien Wechselwirksamkeit*), which has been deduced as the condition of the possibility of self-consciousness.⁷⁴ The summoned subject and the summoning 'object' must therefore stand in the relationship specified by this concept, if self-consciousness is to be possible. The relationship satisfying the concept of 'free reciprocal efficacy' is obviously an intersubjective relationship, and Fichte has therefore argued that intersubjectivity is a condition of the possibility of the subject's self-ascription of free efficacy to itself. If this condition is satisfied, then the subject must ascribe free efficacy to itself. Yet if it does this, so the first transcendental argument claimed, then it must posit an external world in opposition to itself. It is by virtue of the opposition between the subject's activity in intuiting this world and its free activity that the subject can grasp itself as a practical being and become self-conscious. Intersubjectivity is therefore a condition of the possibility of positing a sensible world which is itself a condition of the possibility of self-consciousness. The conclusion of the second argument therefore articulates the condition of the possibility of the conclusion of the first argument. Fichte summarizes as follows:

Our proof has shown that under this condition the subject can and must posit itself as a freely efficacious being. If the subject posits itself as such a being, then it can and must

posit a sensible world; and it can and must posit itself in opposition to this sensible world.
— And now that the main task is resolved, all the activities of the human mind can proceed without further ado, in accordance with the mind's own laws.⁷⁵

With this, the second transcendental argument is complete.

It is important to note that Fichte also expresses the result of this argument as establishing that 'individuality' is a condition of the possibility of self-consciousness — that the subject can only posit itself as self-conscious if it posits itself as an 'individual'. As Fichte puts it in the Introduction to the *Foundations of Natural Right*:

the rational being cannot posit itself as a rational being with self-consciousness without positing itself as an *individual* [*Individuum*], as one among several rational beings that it assumes to exist outside itself, just as it takes itself to exist.⁷⁶

As this passage suggests, Fichte's reason for presenting his result in this way lies in his conception of the individual as an essentially *social* being. Fichte does not conceive of the individual, as he did in the 1793 *Contributions*, as some sort of 'social atom' which is capable, in principle, of independent existence. He conceives of the individual as a being that 'owes' its *very existence* as a rational being to other rational beings.⁷⁷ If we mean by the term 'human being' a being that is capable of rational choice and self-determination then such a being is an individual and thus a social creation. Man must, Fichte insists, be educated by his fellows to become such a being, he does not spring fully-formed from the earth. It is only by being 'summoned' to autonomy and freedom that man becomes autonomous and free. As Fichte puts it: 'The summons to engage in free self-activity is what we call education [*Erziehung*]'.⁷⁸

Fichte's deduction of intersubjectivity pertains, as did the preceding deduction, to the project of justifying *doxa*. For our belief that there are other beings like ourselves with whom we interact is central to our pre-philosophical, common sense view of the world. Yet whilst the first deduction argued for the necessity of our *belief* in the existence of the external world, the deduction of intersubjectivity argues for the necessity of the *existence* of another rational being. It is therefore, unlike its predecessor, a *truth-directed* transcendental argument. This is because it is not enough, if Fichte wishes to refute Jacobi's charge of egoism, to show that it is necessary for us to believe that other rational beings exist. After all, such a belief is, as Fichte himself noted in the *Lectures*, happily accepted by the 'egoist'. Fichte's argument therefore seeks to demonstrate that it is a necessary condition of self-consciousness that another rational being actually *exist*.

If successful, Fichte's argument would constitute a definitive refutation of Jacobi's claim that transcendental idealism is condemned to transcendental egoism. A brief discussion of the details of Fichte's account of how the summoned subject comes

to recognize (recognition in the 'cognitive' sense) that the source of the summons is another rational being will help us when we come to evaluate Fichte's argument.

The summons (*Aufforderung*) is a constraint upon the subject which also impels it to act. It is therefore closely related to the *Anstoß*. Indeed, Fichte makes it clear that it is a type of *Anstoß*. Yet the nature of this *Anstoß* is very different from the nature of the *Anstoß* encountered in the 1794-5 *Foundations*. That *Anstoß* was, we noted, a theoretical 'check' to the I, consisting of those qualitative aspects of experience which we would now describe as 'qualia' or 'raw feels'. Here, the *Anstoß* is clearly a practical 'check' which elicits a practical response from the subject. But how does the summoned subject come to know that another subject is the source of this *Anstoß*?

Fichte addresses this question by considering what the summoned subject must itself posit or assert as necessary conditions of the possibility of the summons. The summons exercises an influence upon the summoned subject. This influence is a limit to the subject's activity and must, if the subject is to be aware of it as a limit, be posited by the subject as a limit. Limitation, Fichte claims, presupposes 'something that does the limiting'.⁷⁹ The subject must therefore posit 'something outside itself' as the determining ground or 'cause' of the influence. This influence is a determinate influence, an influence of a specific sort. The cause of the influence must therefore possess specific characteristics, and the subject must posit it as possessing these characteristics. What must the 'characteristics' of this specific, determinate ground be?

Fichte claims that the influence is understood as a 'summons to the subject to exercise its free efficacy' and could not be understood in any other way. If the influence isn't understood as a summons to act, it would be totally unintelligible and would not actually *be* a summons.⁸⁰ Now the ultimate 'goal' or 'end' (*Zweck*) of the summons is to provoke the summoned subject to exercise its capacity for free efficacy. The summons 'invites' the subject to determine itself to act. But this invitation presupposes that the subject understands what is required of it. The subject has to grasp what is required of it, if it is to determine itself accordingly. Now if the goal of the summons is to stimulate the subject to determine itself to manifest its free activity, and if this presupposes that the summoned subject understands what is required of it, then:

the external being that is posited as the cause of the summons must at the very least presuppose the possibility that the subject is capable of understanding and comprehending; otherwise its summons to the subject would have no purpose at all. The purposiveness of the summons is conditional on the understanding and freedom of the being to whom it is addressed.⁸¹

That being the case, the source of the summons must possess the concepts of reason (it conceives of the summoned subject as a rational being that is capable of understanding) and freedom (it conceives of the summoned subject as a being capable

of free deliberation and action). But, if the source of the summons possesses these concepts, it must be a being that possesses the theoretical capacity of intelligence — for only such a being can possess and use concepts. And as Fichte's argument has shown that intelligence or the 'theoretical I', is only posited as the condition of the possibility of the 'practical I', the possession of the 'theoretical I' presupposes the possession of the 'practical I' or freedom. The source of the summons must therefore be a rational being possessing intelligence and freedom, viz., a being of the same sort as the summoned subject. The summoned subject must therefore posit the source of the summons, the summoning 'object', as a rational being like itself.

Fichte tells us that the summoned subject's 'inference' (*Schlußart*) is necessary, being 'originally grounded in the nature of reason'.⁸² Nevertheless, there is a distinction to be drawn, Fichte suggests, between 'rational', *qua* the nature of human reason, and 'rational', *qua* justified, for what is 'rational' with regard to the former may very well be irrational when judged by the standards of the latter. The nature of human reason may necessarily compel us to draw certain inferences, but this is not enough to show that they are justified (this is, of course, Hume's point about induction). It is therefore necessary to show that this necessary inference is justified. In order to show this, it is necessary to rule out any possibility of error, any possibility that the subject might mistakenly infer that another rational being is the cause of the influence. Fichte approaches this task by considering the question: 'which effects can be explained only by reference to a rational cause?'⁸³

The obvious answer to this question — 'those that must necessarily be preceded by some concept of them' — is true, but simply raises the more complex, 'higher' question, 'which, then, are those effects about which one must judge that they were constructed only in accordance with a previously constructed concept [*einem vorher entworfenen Begriffe*]?'⁸⁴ Fichte's answer to this question explicitly refers to Kant's conception of reflective judgement and thus implicitly refers to Kant's account of the traveller. The traveller, upon encountering the hexagon traced in the sand, reflectively sought a universal concept or idea with which to think it. The concept he settled upon was the idea of a rational being. As we have seen, one complaint against this inference is that it only guarantees a possibility; it does not guarantee that the author necessarily is a rational being. Here Fichte advances another complaint: insofar as it is the traveller who unifies the sensible manifold with the idea of rationality, it is the *traveller who is the rational cause*. The phenomenon is only meaningful by virtue of an idea that the traveller has introduced. That being the case, with what right can the traveller infer that another rational being is the author of the hexagon? How can he possibly tell, Fichte asks, that the hexagon *qua* meaningful artefact is *also* produced by another rational being and is not simply his own production? Fichte's point, in short, is

that the traveller can never know with certainty whether the 'traces of a man' ('*vestigium hominis*') he sees are really his own traces. As Fichte puts it:

Every effect, once it exists, can very well be comprehended, and the manifold within it fits itself into a conceptual unity more gracefully and felicitously, the more intelligence the observer himself has. Now this is a unity that the observer himself has brought into the manifold, by means of what *Kant* calls reflective judgement; and reflective judgment must necessarily bring such a unity into the manifold, if there is to be an effect for the observer at all. But who can guarantee to the observer that, just as he now orders the *actual* manifold under his concept, so too, prior to the effect, the *concepts* of the manifold he perceives were themselves ordered, by another intelligence, under the concept of the unity that the observer now conceives; and who could justify the observer in drawing such an inference? Thus it must be possible to point to a higher ground of justification; otherwise the inference to a rational cause is entirely groundless [...]⁸⁵

Thus, reflective judgement cannot tell us what effects must be the effects of a rational cause, for it is impossible to distinguish between the rationality of the author of the inference and the rationality of the putative author of the meaningful phenomenon. It is therefore necessary to find a higher ground of justification for the inference to a rational cause.

Fichte approaches this task by claiming that it is definitional of a rational cause that it 'constructs a concept of a product to be realized through its activity' and that this concept, which is the 'concept of an end', serves as a norm which guides its action.⁸⁶

The summoned subject can only grasp its capacity for free efficacy in relation to an object against which it can exercise its efficacy. It must therefore have cognition of the 'object' (for 'I must represent whatever I will') and this 'object' is, as we have seen, the summoning subject. Now, this cognition must have been the goal or end of the summoning subject, in performing the summons. The summoning subject must have sought to produce a cognition in the other party. Fichte writes:

Thus a sure criterion for determining that something is the effect of a rational being would be this: the effect can be thought as possible only under the condition that there is some cognition of the object of the effect. But there is only one thing whose possibility can be thought only through cognition — rather than through some merely natural force — and that is cognition itself. Thus if the only possible object of an effect — and here that also means its end — were the production of cognition, then one would necessarily have to assume that the effect had a rational cause.

But in this case, the assumption that the production of cognition was intended would have to be necessary. That is, it would have to be impossible to think that the action had any other end, and the action itself would have to be incomprehensible and not actually comprehended at all, unless it were comprehended as one that intended to produce cognition.⁸⁷

Thus, something is the effect of a rational being just in case it is only intelligible on the assumption that it is intended to produce a cognition. Here, a comparison of this argument with the argument of the *Lectures* is illuminating. The *Lectures* rejected purposiveness as a sufficient mark of rational authorship on the grounds that many

things possessing purposiveness could be explained in terms of organic natural necessity. It was therefore necessary to discover a sufficient mark of rational authorship and this mark was freely achieved purposiveness. Understanding freedom 'negatively', as an absence of natural causation, Fichte argued that if no natural cause for the purposive action of the other being could be discerned, we could legitimately infer that its action was based upon the 'law of freedom' and thus that it was a rational being.

Here Fichte settles upon a different criterion: the lack of any explanation for the other being's action, other than the attempt to produce cognition. This criterion allows us to be sure that the being is not a natural being, insofar as we cannot impute such an intention to a natural object. For although we might say that nature 'intended to teach us something', it is simply a figurative way of speaking; we do not, Fichte thinks, seriously impute this intention to natural entities.⁸⁸ It should be noted that although Fichte's criterion is the absence of any explanation except the intention to produce cognition, the being which is discovered if this criterion is satisfied, is *not* (as it was for Kant) simply the human being as a 'theoretical being', a being characterized by its theoretical capacity for geometrical construction. It is also the human being as a 'practical being', a being capable of rational deliberation and action and thus a being worthy of 'respect' (*Achtung*). Indeed, the summoning subject intended to produce a cognition of itself as just such a being, and thus intended that the subject respect it.

Now, it might plausibly be objected that Fichte's account of how recognition occurs is vulnerable to the very criticism he raises against Kant; viz., that nothing guarantees that the rationality attributed to the other being is anything more than the rationality of the judging subject. For what guarantees us that the attribution of an intention to produce knowledge is not simply a figment of the judging subject, an illegitimate projection of his conception of rationality? This is a serious objection. For no matter how 'certain' Fichte regards the abductive inference to rational authorship, it is always possible that it is mistaken. Indeed, why should the failure to find an alternative explanation for the action be anything more than just that, i.e., a failure to find an alternative explanation? Why couldn't the effect be the chance product of natural processes?

It seems to me that these criticisms are well-placed. Nevertheless, I think they can be mitigated once we realize that Fichte thinks that we can only claim with certainty that an effect is the product of an intention to produce cognition if certain conditions are satisfied. The first of these conditions is hinted at in the criticism we cited earlier. For Fichte opens his criticism by saying that:

Every effect, *once it exists*, can very well be comprehended, and the manifold within it fits itself into a conceptual unity more gracefully and felicitously, the more intelligence the observer himself has.⁸⁹

The clue here is '*once it exists*': for Fichte is attacking those inferences from the effect to a now absent cause. It is a necessary condition of the certainty of the inference, Fichte suggests, that it takes place at the very moment at which the cause produces the effect, at the very moment in which the effect is produced in the affected subject. I must *experience* the impact of the summons, and it is this impact which allows me to infer a rational author as its cause. However, this necessary condition is only a sufficient condition for a merely 'problematical' inference, an inference which asserts the mere *possibility* that another rational being is the author of the cause. In order for this inference to become 'categorical'⁹⁰, that is, necessary and thus certain, another necessary condition must be satisfied. As we shall see in our discussion of the next argument, this condition is that the other being confirms our judgement by continuing to act in a way which evinces respect.

Fichte therefore claims that the subject is compelled to infer that another rational being is the cause of the summons. Having inferred that the summons is a summons to free activity whose author is a rational being, the subject responds to the summons by establishing a relationship with the rational being, and it is this relationship that is a condition of the possibility of self-consciousness.

The Deduction of Mutual Recognition

The 'third theorem' of the *Foundations of Natural Right* states that:

*The finite rational being cannot assume the existence of other finite rational beings outside it without positing itself as standing with those beings in a particular relation, called a relation of right [Rechtsverhältnis]*⁹¹

The summoned subject attains self-consciousness as a rational being with a determinate 'sphere' (*Sphäre*) of freedom. Within this sphere, the subject chooses freely and is the 'final ground' of what it wills. Yet the subject possesses this sphere of freedom by virtue of the fact that another rational being has decided to summon the subject by limiting its freedom. The subject therefore posits another rational being as the 'ground' of what it wills. In order to assert itself as a free independent agent, the subject must be able to distinguish itself from the other being. Now it can only do this, Fichte claims, by distinguishing between the extent to which it is the foundation of its sphere of freedom and the extent to which the other is the foundation.

The subject's sphere of freedom is founded upon the subject with regard to 'form', by which Fichte means the fact that there is activity at all. Nevertheless, the

subject's sphere of freedom is only partially founded upon the subject's activity with regard to form. For the subject's activity constitutes a response to a summons to free activity, and the source of this summons is the other subject. Without the other subject, the subject would not have manifested its free activity. The subject's sphere of freedom is therefore, with regard to form, conjointly founded upon the subject and the other.⁹² The subject's sphere of freedom is founded upon the other subject with regard to 'content', by which Fichte means the set of possible actions available to the subject. This is because the other subject, in summoning the subject to act, restricted its activity and undertook a commitment not to hinder the exercise of the subject's activity. In so doing, the other subject delimited its 'sphere' of action and thereby delimited a sphere for the subject in which to act, which sphere contains certain possibilities of action. The other subject therefore determines the subject's activity as to both form — that there is free activity *at all*, and content — delimiting the sphere in which the subject may act. However, *within* the sphere that has thereby been created, the subject is absolutely free to choose from the possibilities available to it. By freely choosing one of the possibilities available to it, the subject constitutes itself as a free 'individual', a rational being of a specific kind. And it is only an individual, and it can only grasp itself as an individual, in opposition to another individual (the other subject) who, by limiting its freedom, secures a sphere in which the subject can act. The subject therefore grasps itself as an individual by differentiating and opposing itself to an individual who is *not* it. We might say that the other individuates the individual.

The subject therefore opposes itself to the other subject. But in order to do this, it must posit the existence of this other subject and its corresponding sphere. Moreover, the subject posits the other subject as a free being and thus as capable of crossing the boundary of its respective sphere. The other subject could have 'overstepped' the sphere in which it acts and, having done so, could have invaded and appropriated the summoned subject's sphere, thereby depriving it of its freedom. But the other subject did *not* overstep its sphere and therefore 'materially limited its freedom through itself', i.e., limited the set of possible actions available to it by virtue of its formal freedom.⁹³ The other subject could have done anything it pleased. It could have appropriated all the available resources, but it chose not to. It instead chose to restrict its free activity and summon the subject to act freely. By restricting its freedom in this way the other subject demonstrated that it *recognized* the subject as a free rational being. It recognized the subject 'cognitively' as a being that possibly possessed certain characteristics. Yet, insofar as it fully understood the import of these characteristics, it was led to recognize the subject 'honorifically', to respect the subject and to exhibit this respect in action. Fichte considers the expression of respect in appropriate behaviour to be crucial, if this respect is to have any relevance for the

subject who is recognized, for '*only in action does there exist [...] a recognition valid for both*'.⁹⁴

The summoned subject therefore posits that the other subject limited its freedom in order to perform the summons. But this means that the other subject restricted its freedom in accordance with a concept of the subject as a free and rational being — it set this concept as the end of its action. Yet this could only have been possible if the other subject possessed a concept of the subject as a free and rational being. Now the other subject does indeed possess such a concept, and has set it as its end. However, this concept and the judgements involving it are at first only 'problematical', expressing the *possibility* that the subject is a free rational being, and must, in order to constitute genuine knowledge, become 'categorical' or necessarily true. Whether this transformation takes place depends upon the response of the subject. The other subject's cognition must be intersubjectively validated; the response of the subject determines whether the other subject's judgement becomes categorical:

the actualization of the other being's categorical knowledge of the subject as free is conditioned by the subject's own knowledge and by its acting in accordance with such knowledge.⁹⁵

Two cases of failure are conceivable here. In the first case, the subject simply fails to recognize the other being. In the second case, the subject recognizes the other being, but fails to manifest this recognition in appropriate behaviour, i.e. by restricting its free activity and 'summoning' the other. In both cases, the other's problematical judgement cannot become categorical, for 'the other could not infer that the subject was a rational being, since such an inference becomes necessary only by virtue of the subject's self-limitation'.⁹⁶ The other is therefore not obliged to treat the subject as a rational being. What is crucial here is that the subject manifests its recognition in appropriate behaviour. The fact that the subject may 'privately' respect the other within the inner sphere of its conscience is irrelevant and is, Fichte emphasizes, a matter for moral philosophy.⁹⁷ Within the sphere of right, recognition is only of value insofar as it is publicly exhibited.

If the subject responds appropriately, it confirms the other's judgement, transforming a problematical judgement into a categorical judgement. The other subject now knows with certainty that the subject is a rational being and must act accordingly, limiting its activity so that the subject may act. The other's recognition of the subject is therefore conditional on the way the subject responds, and the subject's recognition of the other is conditional on the way the other responds. If the other does not respond in a way which confirms the subject's problematic recognition of it, the subject cannot know with certainty that the other is a rational being. If the appropriate

response — recognition in action — is not forthcoming, the recognizing party is not obliged to recognize the other as a rational being. Recognition cannot be unilateral but must be *mutual*. As Fichte puts it:

Thus the relation of free beings to one another is necessarily determined in the following way, and is posited as thus determined: one individual's knowledge of the other is conditioned by the fact that the other treats the first as a free being (i.e., limits its freedom through the concept of the freedom of the first). But this manner of treatment is conditioned by the first's treatment of the other; and the first's treatment of the other is conditioned by the other's treatment and knowledge of the first and so on *ad infinitum*. Thus the relation of free beings to one another is a relation of reciprocal interaction through intelligence and freedom. One cannot recognize the other if both do not mutually recognize each other [*beide sich gegenseitig anerkennen*]; and one cannot treat the other as a free being, if both do not mutually treat each other as free.

The concept established here is extremely important for our project, *for our entire theory of right rests upon it*.⁹⁸

Mutual recognition and the treatment expressing it are therefore deduced as conditions of the possibility of self-consciousness. For I can only attain self-consciousness as an individual — as a being with a specific sphere of freedom. But I can only be an individual if I respond to the summoning individual's self-limitation by limiting my freedom. For, if I refuse to recognize the other, the other may rightfully refuse to recognize me, which refusal will lead to the abolition of my sphere of freedom and thus the abolition of the set of possible actions which allows me to determine my individuality. (The other could, for example, re-exert its free activity and appropriate all the natural resources, thereby eliminating the possibilities available to me.)

Now in order for individuality to be possible, it is not enough that I stand in a relationship of mutual recognition with just one individual. I must stand in a relationship of mutual recognition with *all* other individuals. For I have a concern to preserve my individuality, to preserve the sphere of freedom within which I act. Now this concern is, Fichte claims, a concern with the *future*. If I wish to preserve my sphere of freedom, I must therefore undertake a commitment to recognize any individual I may encounter in the future. As Fichte puts it:

*I must in all cases recognize the free being outside of me as a free being, i.e., I must limit my freedom through the concept of the possibility of his freedom.*⁹⁹

This is the 'principle of right' (*Rechtssatz*), which safeguards the 'relation of right' (*Rechtsverhältnis*):

each is to limit his freedom through the concept of the possibility of the other's freedom, under the condition that the latter likewise limit his freedom through the freedom of the former.¹⁰⁰

This relation of right is the relation of mutual recognition. If the relation of right is disturbed or destroyed, individuality and self-consciousness are destroyed, for the relation of right is the condition of the possibility of the former. The individual must therefore possess the concept of this relation — the concept of right — and act in accordance with this concept.

Rights, for Fichte, are those entitlements which facilitate a particular intersubjective relationship — mutual recognition or the relation of right — and belong to subjects insofar as they belong to this relationship. Insofar as this relationship is a condition of the possibility of self-consciousness, every subject of experience — the sceptic about rights included — must, insofar as they consider themselves to be self-conscious, acknowledge the existence of these entitlements. Rights are natural for human beings insofar as we couldn't be human without them.

This ends our exposition of Fichte's deduction of the concept of right. As we have seen, Fichte's argument seeks to demonstrate that a specific intersubjective relationship — mutual recognition or the relation of right — is a condition of the possibility of self-consciousness. This is a substantive and contentious claim. Clearly, therefore, the cogency and plausibility of Fichte's argument in support of this claim must be assessed. Before attempting this, however, I would like to bring out a crucial, but often neglected, aspect of Fichte's deduction. This is the attempt, touched upon in our discussion of the *Lectures*, to transform transcendental logic into a logic of intersubjectivity.

The Logic of Intersubjectivity

In our discussion of the *Lectures* in chapter 5 I noted that Fichte had 'socialized' the categories of Kant's transcendental logic, thereby transforming them into categories of interaction between rational beings. Fichte therefore provided the rudiments of a 'logic of intersubjectivity'. In the *Foundations of Natural Right*, Fichte develops these rudiments further.

At the heart of Fichte's account is the notion that there are certain concepts and judgements which can only be satisfied by intersubjective relationships. We have already seen that the modality of judgements attributing rationality to another being can be transformed by the response of the being who is the object of the judgment. However, there are also certain concepts whose applicability is dependent upon interaction between rational beings. The concept of 'free reciprocal efficacy' is clearly one such concept. The concept of 'individuality' is also a concept of this type. Fichte describes the special status of this concept as follows:

the concept of individuality is a *reciprocal concept* [*Wechselbegriff*], i.e. a concept that can only be thought in relation to another thought, and one that (with respect to its form) is conditioned by another — indeed by an *identical* — thought. This concept can exist in a rational being only if it is posited as *completed* by another rational being. Thus this concept is never *mine*; rather, it is — in accordance with my own admission and the admission of the other — *mine and his, his and mine*; it is a shared concept [*ein gemeinschaftlicher Begriff*] within which two concepts are unified into one.¹⁰¹

This conception of a 'reciprocal concept' (*Wechselbegriff*) represents a prescient attempt to break out of what Habermas has called the paradigm of the 'philosophy of consciousness' or 'subject philosophy'.¹⁰² This paradigm regards concepts as the private contents of private minds, and regards the application of concepts as the activity of an isolated judging subject. For Fichte, the concept of individuality is not privately owned, it is a common possession, and its application is dependent upon a consensus between subjects of experience. I cannot apply the concept to myself without the consent of the other, my description of myself as an individual requires intersubjective confirmation. The same is true for the other, and this concept is therefore a 'shared concept' (*gemeinschaftlicher Begriff*) which binds myself and the other together into a 'community' (*Gemeinschaft*). If I wish to apply the concept of individuality to myself, the other must also apply it to me and act appropriately; but the other will only do this if I apply the concept of individuality to her and act appropriately. We must therefore, if we wish to describe ourselves as individuals, regard each other as individuals and act in an appropriate way. And as we *must* regard ourselves as individuals if we are to be free rational beings, we are, Fichte claims '*bound and obligated* to each other by our very existence'.¹⁰³

The concept of individuality therefore has certain normative implications for interaction. We must regard and treat others as individuals, allowing them the freedom to determine themselves. Yet there must, Fichte claims, be some sort of law that guarantees that we will act in accordance with these implications, that we will not be tempted to harm or restrict the freedom of others. Now this law cannot be the moral law which is, as we have seen, inapplicable to the domain of right. Rather, it is a 'theoretical' law, the law of logical consistency:

There must be a law that is common to us both and commonly recognized as necessary, a law by virtue of which we mutually abide by the ensuing implications; and this law must exhibit the same character by virtue of which we entered into that very community. But this is the character of rationality; and the law of reason that governs all further implications is called agreement with oneself, or *consistency* [*Konsequenz*], and is scientifically presented in general *logic*.¹⁰⁴

It is therefore rationality in the 'logical' or 'theoretical' sense which constrains us to act in accordance with the normative implications of the concept of individuality. Fichte's thought here seems to be as follows: I can only apply the concept of individuality to

myself if the other applies this concept to me and treats me in the appropriate way. But the other will only treat me in the appropriate way, if I apply the concept of individuality to her and treat her appropriately. I am therefore committed, if I wish to apply the concept of individuality to myself, to treating the other as an individual. Now if I assert my individuality by disrespecting the other, I am guilty of inconsistency. For my assertion of my individuality negates the very condition of the possibility of my individuality, viz., the other's respect. I am therefore inconsistent. And since I have shown myself to be an inconsistent and irrational being, the other can, quite consistently, treat me as such.

Fichte therefore argues that certain judgements and concepts cannot be applied by an isolated judging subject, but can only be applied by two subjects interacting with one another in a certain way. This is already a radical transformation of Kant's transcendental logic. Yet Fichte's account reaches further than this, touching upon the very heart of Kant's 'Transcendental Analytic' — the 'Transcendental Deduction'. For Fichte suggests that certain judgements are constituted by a 'consciousness common to both of us' (*einem uns gemeinschaftlichen Bewußtsein*) which serves to 'synthesize' them.¹⁰⁵ With this, Fichte comes very close to replacing Kant's conception of transcendental subjectivity with a conception of transcendental intersubjectivity according to which judgements are 'synthesized' by a community of interacting beings. And whilst it would be implausible to claim that Fichte's attempt to develop a logic of intersubjectivity anticipates the 'transcendental pragmatics' of Apel or the 'formal pragmatics' of Habermas, it is at least arguable that it represents a step in the right direction.

Assessing the Deduction

If successful, Fichte's transcendental argument would simultaneously refute the sceptic about the external world, the sceptic about other minds and the sceptic about rights. This would be an extraordinary result. Unfortunately, it is far from obvious that Fichte's argument achieves this result. This is due to the fact that certain crucial claims are poorly justified and that the transitions between stages of the argument are often far from convincing.

It seems a necessary condition of transcendental arguments having any anti-sceptical force that they start from an uncontentious claim which the sceptic is obliged to accept. The claim that we are self-conscious seems to satisfy this condition; it is something that even the most inveterate sceptic would not wish to deny. Furthermore, even if the sceptic *did* wish to deny it she would be guilty of pragmatic inconsistency. The claim that we are self-conscious therefore provides an ideal starting point for Fichte's argument. Problems arise, however, when Fichte specifies the first condition of

the possibility of self-consciousness with the claim that the human being cannot be self-conscious without 'ascribing a free efficacy to itself'. For why, the sceptic might object, should being aware of oneself as a being that is capable of setting ends and willing to realize them, be a necessary condition of self-consciousness? Why couldn't being aware of oneself as a 'theoretical being' — a being possessing concepts and percepts — be the sought-for necessary condition? It is not at all obvious or self-evident that the 'practical I is the I of original self-consciousness'. At the very least, some argument is needed in order to render this claim convincing.

We might also want to question Fichte's account of the way in which the subject comes to know that another rational being is the source of the summons. That is, we might want to ask why Fichte attributes such significance to what is essentially an abductive inference, and why he thinks that repeating it (on the occasion of further relevantly similar actions on the part of the other) can change its epistemic status. If the initial inference is uncertain, it is hard to see how repeating it could serve to make it certain.

Fichte's argument therefore does not seem entirely convincing. Nevertheless, some of the claims it seeks to establish do not seem totally implausible and it might be possible to provide alternative arguments for them. Thus, the claim that our conception of ourselves is dependent upon others recognizing us and treating us appropriately, seems plausible and has been defended by philosophers as different as Hegel, Habermas, Sartre and Marcel.¹⁰⁶ This claim has also received empirical confirmation from the psychoanalysis of Lacan and Winnicott and the social psychology of G. H. Mead.¹⁰⁷ The arguments of these writers has led to this claim becoming something of an intellectual commonplace. What is seldom recognized, however, is that the essentials of this argument are first developed by Fichte for whom the relation of mutual recognition is a necessary condition of our conception of ourselves as autonomous, rational beings.

This may seem to be an excessively 'deflationary' reading of Fichte's argument. Nevertheless, it seems to me that such a reading reveals Fichte's genuine 'original insight' — the claim that recognition is crucial to our sense of ourselves as autonomous and rational. On Fichte's account, one cannot be an autonomous and rational being alone, one's conception of oneself as such a being is dependent upon others. To this insight, Fichte adds another: the insight that rights regulate intersubjective relations so that human agents cannot harm, and therefore disrespect, one another. According to Fichte, the reason why we value rights is not, as the utilitarian would have it, because they serve to promote utility, but because they prevent others from acting in a way that injures my conception of myself as an autonomous agent. I have a right to freedom, not because such a right serves to promote utility in the long run, but because my capacity

to choose and act freely is central to my conception of myself as a rational being. The plausibility of this view is supported by the fact that many of us feel that there is an intimate connection between rights and humanity. The denial of a right is often seen as the denial of someone as a rational, autonomous being. If this seems an excessively 'idealized' conception of the role of rights, one simply need call to mind the many cases in which people have sacrificed corporeal needs or even their lives in order to campaign for rights which ensure that their conception of themselves is recognized.

Thus, even though the details of Fichte's argument do not bear much scrutiny, it contains insights that are both philosophically interesting and plausible. These insights, one might claim, allow us to distinguish between what is 'living' and what is 'dead', in Fichte's theory of intersubjectivity.

We have seen that the 'Deduction of the Concept of Right' argues that the relation of right is a condition of the possibility of intersubjectivity which is, in turn, a condition of the possibility of self-consciousness. This claim is, as Fichte himself notes, central to the *Foundations of Natural Right*, the remainder of which is devoted to an account of the institutions that will guarantee the relationship of mutual recognition. Given the centrality of this claim, it is not unreasonable to suggest that Fichte's 'doctrine' or 'theory' (*Lehre*) of right is a theory of intersubjectivity. And given the systematic role of this doctrine in Fichte's *Wissenschaftslehre* — its mediating function — it would seem that a theory of intersubjectivity is, quite literally, central to Fichte's system of transcendental philosophy. A theory of intersubjectivity is therefore not a merely incidental part of Fichte's system which is subordinated to an overriding concern with subjectivity. It is a crucial and indispensable component of Fichte's system of transcendental philosophy.

Conclusion

In the Introduction to this thesis I claimed that Fichte's theory of intersubjectivity had, with a few exceptions, been neglected or dismissed as a marginal aspect of his transcendental philosophy. I hope to have shown that Fichte advances a compelling account of intersubjectivity which is at the heart of his transcendental philosophy. I would like to conclude this thesis by retracing the steps of my account and by offering some reflections on the significance of Fichte's theory of intersubjectivity for contemporary social and political thought.

I began by noting that Fichte's concern with intersubjectivity is directly related to his charge that Kant's philosophy is incomplete because it fails to justify our claim to recognize other rational beings. I attempted to demonstrate that Fichte's charge is itself justified, by considering the centrality of intersubjectivity within Kant's Critical philosophy. I argued that intersubjectivity plays a crucial role in Kant's accounts of theoretical reason, practical reason and the unity of reason. I also argued that Kant's attempts to account for our knowledge of other rational beings are unsatisfactory, only establishing the possibility of such knowledge.

In the second part of the thesis, I considered Fichte's account of intersubjectivity in relation to his system of transcendental philosophy or *Wissenschaftslehre*. I began with an account of Fichte's conception of such a system, and then proceeded to consider Fichte's first serious reflections on intersubjectivity — *Some Lectures Concerning the Scholar's Vocation*. I then broached an issue that posed a serious threat to my interpretation of Fichte: the alleged inconsistency between Fichte's transcendental idealism as presented in the 1794-5 *Foundations of the Entire Wissenschaftslehre* and his emphasis on intersubjectivity. In order to resolve this issue, I offered, in opposition to the traditional 'metaphysical' interpretation of Fichte's idealism, my own 'non-metaphysical' reading. Having concluded that Fichte's doctrine of the *Anstoß* provides the basis for an account of how we can recognize other rational beings, I then turned to consider Fichte's 1796-7 *Foundations of Natural Right* which contains one of Fichte's most influential claims about intersubjectivity: that mutual recognition is a condition of the possibility of self-consciousness. I argued that, whilst Fichte's argument in support of this claim is not terribly convincing, it contains insights that are philosophically plausible. I concluded my discussion of the *Foundations of Natural Right* by arguing that it provides a theory of intersubjectivity which, due to the role of the work within Fichte's system, is central to his transcendental philosophy.

In providing this account, I hope to have shown that Fichte's reflections on intersubjectivity deserve serious consideration by historians of post-Kantian idealism. I also hope to have shown, if only indirectly, that Fichte's account of intersubjectivity contains insights that deserve serious consideration by contemporary social and political philosophers.

The first, and perhaps most significant, of these insights is the notion that rights, by regulating intersubjective relations, guarantee that others respect us as autonomous and rational beings. This argument, which has some affinities with the justification of rights advanced by G. Vlastos (according to which rights safeguard 'individual human worth'¹⁰⁸), has been further developed by Renaut and Ferry.¹⁰⁹ For these philosophers, Fichte's philosophy of right provides a powerful response to the Nietzsche-inspired Vitalism which, in France at least, threatens to undermine the notion of natural rights.¹¹⁰ Within recent Critical Theory, Axel Honneth has also advanced the claim, in his programmatic statement of a morality of recognition, that rights serve to guarantee respect, although he attributes this thesis to Ernst Bloch's *Natural Right and Human Dignity*.¹¹¹

Fichte's claim that the concept of individuality is a 'reciprocal concept' and his claim that an individual is an essentially social being, also have implications for contemporary social and political thought. For these claims provide the basis for a response to the communitarian charge that liberalism is committed to 'asocial individualism'.¹¹² Fichte's deduction of right demonstrates that 'primacy-of-right theories' are not, *pace* Taylor, committed to an atomistic social ontology. Furthermore, Fichte's deduction of right also shows that an emphasis on intersubjectivity does not entail a commitment to communitarian notions of community or tradition. Fichtean society is not encumbered by the weight of tradition, which determines which conception of justice and which conception of rationality are valid. Fichtean society is, rather, an essentially 'open' society in which the validity of norms is determined by the interaction of free rational beings.

Fichte's account of intersubjectivity therefore contains insights that are of relevance to both Critical Theory and contemporary liberalism. Yet whilst Ferry and Renaut have developed what might be described as a 'Fichtean liberalism', Critical Theorists have tended to dismiss Fichte's account of intersubjectivity. Nevertheless, there does seem to be an affinity between Fichte's theorizing about intersubjectivity and the concerns of contemporary Critical Theory. Indeed, I would suggest that Fichte's theory of intersubjectivity, properly construed, could provide valuable resources for a Critical Theory of society. Such, at least, is the claim with which this thesis ends.

NOTES

- ¹ Fischbach, 2000, p. 10.
- ² For an excellent discussion of the similarities between Fichte and Kelsen on this topic, see Renault, 1986, pp. 227. Needless to say, Fichte does *not* share Kelsen's legal positivism according to which 'rights' are reducible to 'positive' laws (laws that exist or have existed). For a lucid discussion of Kelsen's position, see Renault and Sosoe, 1991, pp. 351-367.
- ³ On this point, see Ferry, 1984, Section 2, Chapter 2.
- ⁴ Fichte, 2001.
- ⁵ Neuhouser in FNR, p. vii.
- ⁶ FNR, pp. 10, 11. SW, III, p. 10.
- ⁷ A helpful account of Wolff's approach is provided in Renault, 1992, pp. 95-108.
- ⁸ This point is suggested by Fischbach in his discussion of what he calls the 'juridical "style" of transcendental philosophy'. Fischbach, 2000, pp. 14-16. See also Renault, 1986, pp. 9-10.
- ⁹ C1, A84/B116.
- ¹⁰ Renault, 1986, p. 228.
- ¹¹ As Neuhouser points out, with reference to Fichte, the notion of right adds to the notion of moral permissibility the idea that others have a 'prima facie obligation' not to hinder me from exercising my rights. Neuhouser, *Fichte and the Relationship between Right and Morality*, in Breazeale and Rockmore, 1994, p. 160.
- ¹² Fichte, 1974, p. 94. GA I, 1., p. 220.
- ¹³ Fichte, 1974, p. 95. GA I, 1. p. 220.
- ¹⁴ Fichte, 1974, p. 148. GA I, 1. p. 278.
- ¹⁵ Renault, 1986, p. 231.
- ¹⁶ Ferry, 1981, p. 288.
- ¹⁷ Fichte, 1974, pp. 146, 147. GA, I, 1., p. 276, 277.
- ¹⁸ Fichte, 1974, p. 100, footnote. GA, I, 1., p. 226, footnote.
- ¹⁹ Renault, 1986, pp. 234, 245.
- ²⁰ Ferry, 1981. Renault, 1986, pp. 232-5.
- ²¹ Renault, 1986, p. 234.
- ²² Renault, 1986, p. 234.
- ²³ Ferry, 1981.
- ²⁴ Kant, 1996, p. 335. First emphasis mine.
- ²⁵ Renault, 1986, p. 68.
- ²⁶ In his *Metaphysical First Principles of the Doctrine of Right* of 1797 (Part I of the *Metaphysics of Morals*) Kant makes the distinction between right and morality explicit, drawing a distinction between an 'internal' ethical legislation and an 'external' juridical legislation. Renault, 1986, p. 229. GS VI, pp. 218 – 221.
- ²⁷ Druet, 1975.
- ²⁸ FNR, p. 50. SW, III, p. 54.
- ²⁹ Kant, 1996, p. 318.
- ³⁰ Kant, 1996, p. 321, footnote *.
- ³¹ FNR, pp. 13-14. SW, III, p. 13. See also Fichte, 2001, pp. 314-5.
- ³² FNR, p. 10. SW, III, p. 10.
- ³³ FNR, p. 11-12. SW, III, p. 11. In his review of Kant's *On Perpetual Peace*, Fichte expresses this point as follows: 'The validity of the law [of right] is [...] conditioned by the concept of a community of free beings. It ceases to apply where such a community is not possible. Nor does it apply to anyone who is unsuited for such a community, and no one is suited for this who does not subordinate himself to this law'. Fichte, 2001, p. 316.
- ³⁴ Fichte also refers to the concept of right as a 'technical-practical' imperative which is, according to Druet, synonymous with Kant's hypothetical imperative. FNR, p.10. SW, III, p.10. Druet, 1975, p. 62.
- ³⁵ FNR, p. 51. SW, III, p. 55. See also, FNR, p. 125. SW, III, pp. 139-140.
- ³⁶ Fichte, 2000, pp. 315-6.
- ³⁷ Taylor, 1985, p. 188.
- ³⁸ EPW, p. 135.
- ³⁹ Renault, 1986, p. 37.
- ⁴⁰ Fischbach, 2000, p. 19.
- ⁴¹ See Lauth, 1971.
- ⁴² GA, II, 1, pp. 325-373. It is interesting to note that Fichte's decision, in 1790, to devote himself entirely to the dissemination of the Critical philosophy, coincides with the publication of the third *Critique*. Renault suggests that this is no coincidence. Renault, 1986, p. 55.
- ⁴³ EPW, p. 95.
- ⁴⁴ EPW, p. 98.
- ⁴⁵ Philonenko, 1999, p. 101.
- ⁴⁶ Fichte, WSNM, pp. 467-474.
- ⁴⁷ For a detailed comparison see Renault, 1986, pp. 33-54.
- ⁴⁸ WSNM, p. 470.
- ⁴⁹ Renault, 1986, p. 250.
- ⁵⁰ Stern, 2000, p. 10.

- ⁵¹ FNR, p. 51. SW, III, p. 55.
- ⁵² Bentham in Melden, 1970, p. 32.
- ⁵³ For a clear account of 'pragmatic' or 'performative' contradiction see Kupfer, 1987.
- ⁵⁴ FNR, p. 18. SW, III, p. 17.
- ⁵⁵ FNR, p. 18. SW, III, p. 17.
- ⁵⁶ See Inwood, 1992, pp. 247-250.
- ⁵⁷ FNR, pp. 20-1. SW, III, p. 20.
- ⁵⁸ FNR, p. 22. SW, III, p. 21.
- ⁵⁹ FNR, pp. 19, 21. SW, III, pp. 18, 21.
- ⁶⁰ FNR, p. 24. SW, III, p. 24.
- ⁶¹ FNR, p. 24. SW, III, p. 24.
- ⁶² C1, B274-B278.
- ⁶³ Jacobi, 1994, pp. 231, 277ff. It is perhaps interesting to note that Jacobi, in the 1815 Preface to *David Hume on Faith*, openly accused Kant of having modelled the 'Refutation of Idealism' upon his transcendental argument for realism: 'This proposition, "*No I without a Thou*", which the author of the *Letters Concerning the Doctrine of Spinoza* had been the first to proclaim unequivocally a few years before, was transformed in the second edition of the *Critique of Pure Reason* into a formalized refutation of idealism'. Jacobi, 1994, p. 554, footnote 17*.
- ⁶⁴ Stern, 2000, pp. 10-11. According to Stroud, the sceptic can 'always very plausibly insist' that the necessary condition is not that the world actually *is* a certain way, but only that we '*believe*' that it is, or that it 'looks for all the world as if it is'. And this insistence on the part of the sceptic, opens up a gap between appearance and reality which can only be bridged in favour of a realist conclusion if one maintains that the proposition expressing the necessary condition can *only* be understood if one knows whether it is true. But if this is the case, Stroud contends, transcendental arguments tacitly rely on 'some version of the verification principle' which makes them redundant, as whatever sceptical force they possess is derived from a highly problematic semantic thesis. Stroud cited in Stern, 2000, p. 45.
- ⁶⁵ Strawson, 1966, Chapter 3,
- ⁶⁶ Stern, 2000, p. 47.
- ⁶⁷ FNR, p. 30. SW, III, p. 30.
- ⁶⁸ FNR, p. 31. SW, III, p. 32.
- ⁶⁹ FNR, p. 31. SW, III, p. 32.
- ⁷⁰ FNR, p. 31. SW, III, p. 33.
- ⁷¹ FNR, p. 32. SW, III, p. 33.
- ⁷² FNR, p. 32. SW, III, p. 33.
- ⁷³ FNR, p. 33. SW, III, p. 34.
- ⁷⁴ FNR, p. 33. SW, III, p. 34.
- ⁷⁵ FNR, p. 34. SW, III, p. 35.
- ⁷⁶ FNR, p. 9. SW, III, p. 8.
- ⁷⁷ FNR, p. 45. SW, III, p. 48.
- ⁷⁸ FNR, p. 38. SW, III, p. 39.
- ⁷⁹ FNR, p. 34. SW, III, p. 35.
- ⁸⁰ FNR, p. 34. SW, III, p. 36.
- ⁸¹ FNR, p. 35. SW, III, p. 36.
- ⁸² FNR, p. 35. SW, III, p. 36.
- ⁸³ FNR, p. 35. SW, III, p. 36.
- ⁸⁴ FNR, p. 35. SW, III, p. 37.
- ⁸⁵ FNR, p. 36. SW, III, p. 37.
- ⁸⁶ FNR, p. 36. SW, III, p. 37.
- ⁸⁷ FNR, pp. 36-7. SW, III, pp. 38-9.
- ⁸⁸ FNR, p. 37. SW, III, p. 38.
- ⁸⁹ FNR, p. 35. SW, III, p. 37. My emphasis.
- ⁹⁰ Unfortunately, Fichte fails to give a clear account of the nature of a 'categorical' judgement. Nevertheless, an idea of the nature of such judgements can be gleaned from Kant's discussion of the 'logical function of the understanding in judgements' in the first *Critique*. C1, A70/B95 – A76/B102. For Kant, 'problematical' judgements belong to the class of judgements of modality and are judgements in which 'one regards the assertion or denial as merely **possible** (arbitrary)'. Eisler, 1994, p. 605. C1, A 74/B100. Thus, in the judgement 'X is free' it is merely *possible* that X is a free being and the validity of this judgement rests upon 'free choice', i.e., we decide to entertain it as valid for heuristic purposes. Fichte opposes 'problematical' judgements to 'categorical' judgements which, for Kant, belong to the class of judgements of relation and are of the subject-predicate form (S is P). They are distinct from, and are the components of, hypothetical and disjunctive judgements. Eisler, 1994, p. 592. Now, the judgement 'X is free' is clearly a categorical judgement in Kant's sense. Yet it is hard to see how a categorical judgement in this sense could be construed as the opposite of a problematical judgement. It seems likely that Fichte uses the term 'categorical judgement' to refer to Kant's 'apodictic judgement' in which the 'assertion or denial' is 'seen as necessary'. Eisler, 1994, p. 591. C1, A74/B100. See FNR, p. 44. To say that a judgement is apodictic is not to say that it happens to be true, where the truth of the judgement is contingent (as in assertoric judgements), but to say that it is necessarily true. In what follows, I shall understand Fichte's categorical judgements as 'apodictic' in Kant's sense.

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- ⁹¹ FNR, p. 39. SW, III, p. 41.
⁹² FNR, p. 39. SW, III, p. 40.
⁹³ FNR, p. 41. SW, III, p. 43.
⁹⁴ FNR, p. 44. SW, III, p. 47.
⁹⁵ FNR, p. 41. SW, III, p. 43.
⁹⁶ FNR, p. 42. SW, III, p. 43.
⁹⁷ FNR, p. 42. SW, III, p. 45.
⁹⁸ FNR, p. 42. SW, III, p. 44. Second emphasis mine.
⁹⁹ FNR, p. 49. SW, III, p. 49, 52.
¹⁰⁰ FNR, p. 49. SW, III, p. 52.
¹⁰¹ FNR, p. 45. SW, III, pp. 47-48.
¹⁰² Habermas, 1987, Lecture XI.
¹⁰³ FNR, p. 45. SW, III, p. 48.
¹⁰⁴ FNR, p. 45. SW, III, p. 48.
¹⁰⁵ FNR, p. 42. SW, III, p. 45.
¹⁰⁶ Cooper argues that the notion of 'reciprocal freedom' is a central component of an existentialist ethic: 'For the existentialist [...] proper relations with others are necessary for a person's existence to be authentically human.' Cooper, 1999, p. 185. This is a thoroughly Fichtean position.
¹⁰⁷ An excellent discussion of intersubjectivity in Habermas, Lacan and G. H. Mead is provided by Dews in Dews, 1999, pp. 87-118.
¹⁰⁸ See Vlastos' essay 'Justice and Equality' in Waldron, 1984.
¹⁰⁹ See Ferry and Renaut's 'How to Think About Rights' in Lilla, 1994.
¹¹⁰ Renaut et al., 1999b, pp. 75-96. Renaut and Sosoe, 1991, Chapter 2.
¹¹¹ Honneth, 1995, Chapter 15.
¹¹² Mullhall and Swift, 1992, pp. 13-18.

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